

FLOOD INSURANCE REFORM: A COMMUNITY PERSPECTIVE

HEARING

BEFORE THE
SUBCOMMITTEE ON
HOUSING AND INSURANCE
OF THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

—————
MARCH 16, 2017
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Printed for the use of the Committee on Financial Services

Serial No. 115-5



U.S. GOVERNMENT PUBLISHING OFFICE

27-204 PDF

WASHINGTON : 2018

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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FLOOD INSURANCE REFORM: A COMMUNITY PERSPECTIVE

Thursday, March 16, 2017

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING
AND INSURANCE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 3:21 p.m., in room 2128, Rayburn House Office Building, Hon. Sean P. Duffy [chairman of the subcommittee] presiding.

Members present: Representatives Duffy, Ross, Royce, Pearce, Posey, Luetkemeyer, Stivers, Hultgren, Rothfus, Zeldin, Trott, MacArthur, Budd; Cleaver, Velazquez, Capuano, Sherman, Beatty, Delaney, and Gonzalez.

Ex officio present: Representatives Hensarling and Waters.

Also present: Representative Green.

Chairman DUFFY. The Subcommittee on Housing and Insurance will come to order. Today's hearing is entitled, "Flood Insurance Reform: A Community Perspective." Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. Also, without objection, members of the full Financial Services Committee who are not members of this subcommittee may participate in today's hearing for the purposes of making an opening statement and questioning the witnesses.

The Chair now recognizes himself for 3 minutes for an opening statement. I want to welcome our members, witnesses, and audience to the Housing and Insurance Subcommittee's second hearing in as many weeks on the National Flood Insurance Program (NFIP). On Thursday, we had a productive discussion with Roy Wright to get FEMA's perspective on the NFIP. Today, we will get a community perspective. We are joined by four great witnesses, each of whom comes with a different set of experience and expertise.

In what 60 Minutes dubbed, "The Storm After the Storm," more than 140 NFIP policyholders who submitted flood claims due to damages caused by Superstorm Sandy were told by FEMA that they could have their claim files reviewed. FEMA's unprecedented Sandy claims review process was prompted, at least in part, by a Federal judge's finding of reprehensible gamesmanship by a professional engineering company that may be widespread. As a result of the claims review process, and with legal help from people like Melissa Luckman, nearly 82 percent of the claims closed by FEMA received additional payment of nearly \$185 million. I look forward to

hearing from Ms. Luckman about the process and ways that Congress can help prevent situations like this from ever happening again in the future.

I also look forward to hearing from Mr. Terchunian, who has decades of experience in coastal hazard area management and coastal property protection on Long Island, which was also hit especially hard by Superstorm Sandy. I hope that he and Mr. Berginnis can share their views on floodplain management and mitigation, which we know from last week's hearing, can save taxpayers \$4 for every \$1 of investment.

Finally, we need to look beyond the NFIP monopoly to a robust private market that can better serve communities through competitive rates and services. Mr. Hecht's company is the largest writer of private insurance in the country, and we will be looking to him to share his views on how to do just that.

I now recognize the gentleman from Missouri, the ranking member of the subcommittee, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman. Late last week, we held a hearing on FEMA's perspective on the National Flood Insurance Program, gaining, I think, some important insight from Mr. Roy Wright. I would encourage the committee to continue engaging with FEMA as we move forward towards flood insurance reauthorization. This is especially important as the President's Fiscal Year 2018 budget contained significant cuts and changes to FEMA. It is extremely disappointing to see that the President's budget would eliminate discretionary funding for FEMA mapping and mitigation activities. If anything, we should be increasing congressional support for these vital activities.

Today, we will hear the community's perspective on the NFIP, giving us a broader understanding of the challenges facing the program and the areas in need of improvement.

Following Superstorm Sandy, which resulted in \$65 billion in damages, allegations began to surface regarding the underpayment of policyholder claims, fraud, and altered engineering reports. As homeowners slowly recover from Sandy, we must continue to hold those who did wrong accountable for their actions.

Now, I am extremely encouraged that this committee is working and is committed to working on NFIP reauthorization, and as this discussion continues, we must do so with a goal of ensuring affordability of flood insurance premiums for our constituents. The program does little good if consumers are priced out of the market and priced out of homes. I would like to yield the last minute to the gentleman from California, Mr. Sherman.

Mr. SHERMAN. I thank the ranking member. I just want to join with him in my concern about this idea of cutting the budget for the mapping program. The idea that mapping is not an appropriate Federal Government expenditure would come as news to Thomas Jefferson, who sent Meriwether Lewis and William Clark to map the Louisiana Purchase. If it was a good expenditure of Federal funds then, and I think it was, then it is a good expenditure that benefits all Americans. If your home isn't on the map, that is also useful information. But more importantly, the mapping process, the insurance process, is designed to reduce the future supplemental appropriations when we have the next disaster, and with global

warming, there will be more weather disasters and flood disasters. So if we can have an effective Flood Insurance Program that starts with mapping, we can avoid the huge supplemental appropriations. And so many Members come and pound the table and say the Federal Government shouldn't be subsidizing, shouldn't be doing this, and yet I see them on the Floor when we have a real disaster and millions of Americans are uninsured, and they are voting for the supplemental appropriation as we all do, because we all have a heart. I yield back.

Chairman DUFFY. The gentleman yields back. The Chair now recognizes the gentleman from Florida, Mr. Ross, the vice chairman of the subcommittee, for 2 minutes.

Mr. ROSS. Thank you, Mr. Chairman, and thank you for calling this important hearing. As we continue our efforts to reauthorize and reform the National Flood Insurance Program before September 30, 2017, we have a lot on our plate, and we are glad that you are here to help us try to solve some of these issues.

The NFIP provides flood insurance coverage to more than 5 million policyholders across the Nation. At the same time, it faces serious financial challenges as it is nearing \$25 billion in debt. As a result, the Government Accountability Office (GAO) has considered the program to be a high-risk since 2006. Damage from flooding has become more frequent and more severe over the past 2 decades despite the NFIP floodplain management efforts. Also, homeowners with NFIP policies have been left with more questions than answers about how their families can rebuild and recover from recent catastrophic storms. As this committee and Congress as a whole moves forward with flood insurance reforms, we must do so with homeowners in mind across the country.

Severe storms transcend the typical partisan divisions we see on Capitol Hill. On this issue, Congress must move beyond political differences and put forward critical NFIP reforms to protect taxpayers and improve the program now, and very definitely for the future.

As a Member of Congress from Florida, I am committed to ensuring that property owners have uninterrupted access to affordable flood insurance products which allow them to recover from devastating storms more quickly. I am also committed to ensuring that homeowners and communities have opportunities to mitigate against flood risks prior to a disastrous weather event. Mitigation is one of the best avenues that we can pursue.

Thank you again, Mr. Chairman, for calling this important hearing, and I am excited about this opportunity to receive testimony from this diverse panel of witnesses. I yield back the balance of my time.

Chairman DUFFY. The gentleman yields back. We now welcome our witnesses today. For introductions, first we have Ms. Melissa Luckman. Ms. Luckman is the director of Touro Law Center's Disaster Relief Clinic, which provides pro bono legal services to Sandy victims. For over 4 years, Ms. Luckman has been helping homeowners navigate the NFIP's process, seeing the program from the perspective of the policyholder. The Law Center has helped put over \$2.3 million back into the Long Island community as a result of their work.

I now recognize the gentleman from New York, Mr. Zeldin, for the introduction of Mr. Terchunian.

Mr. ZELDIN. Thank you, Mr. Chairman. It is my pleasure to introduce to the Housing and Insurance Subcommittee today Mr. Aram Terchunian. He is a resident of New York's First Congressional District, and has over 30 years of experience in storm mitigation and costal restoration work. His company, First Coastal, deals with the NFIP on a daily basis, helping homeowners navigate the complicated process and red tape they face when seeking an improvement in their premiums after an investment has been made to elevate a home or take other steps to protect a property. He is also the wildlife commissioner of the Village of West Hampton Dunes, a coastal community where storm mitigation is top priority. Many homeowners rely on the National Flood Insurance Program. I thank Aram for being here today to share his experience and perspective with our subcommittee on this important topic, and I yield back.

Chairman DUFFY. Our next witness is Mr. Chad Berginnis, the executive director of the Association of State Floodplain Managers, also from the great State of Wisconsin. With nearly 25 years of experience, he is a nationally recognized expert in natural hazard management, flood-loss reduction, and land use planning at the State, local, and private sector level. Welcome.

I now want to recognize, Mr. Ross, our vice chairman, for the introduction of Mr. Hecht.

Mr. ROSS. Thank you, Mr. Chairman. And it is my pleasure to introduce to the Housing and Insurance Subcommittee Mr. Evan Hecht, the founder and CEO of the Flood Insurance Agency, which is based in Gainesville, Florida. They wrote their first private flood insurance policy in our State on October 24, 2013. Today, they have over 3,285 active private flood market policies in Florida. Visiting your company's website, I am very impressed with the positive response your flood insurance policies have received. Florida homeowners deserve more choices when it comes to flood insurance. I am excited for the subcommittee to receive your testimony and for you to be able to provide a perspective outlining the unique needs of our State and the benefits homeowners can receive from an increase in private flood options. Thank you, Mr. Hecht, for joining us, and I yield back the balance of my time.

Chairman DUFFY. The gentleman yields back. The witnesses will now be recognized for 5 minutes to give an oral presentation of their testimony. And without objection, the witnesses' written statements will be made a part of the record. Once the witnesses have finished presenting their testimony, each member of the subcommittee will have 5 minutes within which to ask the panel questions.

On your table, there are three lights: green means go; yellow means you have one minute left; and red means your time is up.

With that, Ms. Luckman, you are now recognized for 5 minutes for your oral presentation.

**STATEMENT OF MELISSA H. LUCKMAN, DIRECTOR, DISASTER
RELIEF CLINIC, TOURO LAW CENTER**

Ms. LUCKMAN. Good afternoon, Chairman Duffy, Ranking Member Cleaver, and members of the subcommittee. My name is Melissa Luckman. I am the director of the Touro Law Center Disaster Relief Clinic. While we assist homeowners with various categories of assistance, flood insurance has always been our primary focus. I want to thank you for the opportunity to testify about the National Flood Insurance Program, and to provide suggestions for reform as we quickly approach the September 2017 expiration of this program. To date, we have spoken with over 5,000 households, and have represented over 1,400 homeowners with various Sandy issues. We have provided assistance to homeowners with supplemental insurance claims, flood insurance appeals, flood insurance litigation, and most recently, assistance with the FEMA Sandy claims review process.

First and foremost, I would like to state that I do believe the NFIP should be reauthorized as it provides a valuable subsidized flood insurance policy to thousands of homeowners in the United States. However, there must be significant reform to ensure the program functions in a more efficient manner than it does today. The greatest lesson learned from my involvement with flood insurance claims is the simple concept of getting it right from the start. It is imperative that we shift our focus from a reactive response to proactive education to ensure a full and complete recovery to create a more sustainable future, not only for our country, but also for the National Flood Insurance Program.

My proposals for reauthorization are as follows: first, I believe there should be a standardized requirement of education and certification for all actors connected to an NFIP policy, which would include WYO staff adjusters, independent adjusters, engineers, and sales agents. Standardization and continued educational requirements for all actors engaged would implement quality control among those participating in the NFIP.

Next, I believe there needs to be additional requirements of policyholder acknowledgment and inspection at the inception of an NFIP policy. In the wake of Sandy, policyholders voiced a host of complaints with regard to their flood insurance coverage. Those most commonly expressed were that they carried a structure policy of \$250,000 when they didn't have a mortgage, or a mortgage of under that amount; that they believed that they had contents coverage, which they actually did not have; and that they were not aware of the limitations on basement coverage. Quite often, policyholders who could barely afford their premiums felt the cost was not worth the coverage. A simple solution to these issues is a requirement that all NFIP policies be accompanied by an acknowledgment which must be executed by the policyholder and the sales agent at the inception of a policy which speaks to these issues.

I also believe that there is a necessity for a baseline photographic inspection which should take place at the inception of an NFIP policy. Similar to the issuance of a homeowner's insurance policy, there should be the requirement of a photographic inspection completed for the property for which flood insurance is being sought to ensure that the information set forth in the application is correct.

With regard to the claims and appeals process, I have proposed five reforms in my written statement, but would like to discuss two here today.

First, I believe a policyholder should be advised in advance who the adjusting and engineering companies will be who will be assigned to their claim. Thereafter, the homeowner should be afforded a reasonable opportunity to research and investigate that company with the option to veto and request another company be reassigned.

Second, I believe that the appeals process should be handled by a neutral arbitrator who is not employed by FEMA. With regard to mitigation and the increased cost of compliance, post-Sandy, we saw two items that homeowners struggled with the most, and that is the cost of accessibility, post elevation, and additional costs policyholders face when complying with local building codes. I believe that these are two very important items that policyholders need for recovery which could potentially be covered under ICC coverage without the trigger of substantial damage. The hot topic post-Sandy, of course, is litigation costs, and who covers those costs. I do believe that policyholders who act in good faith through the submission of a claim, throughout the appeals process, and are forced to pursue litigation, should be compensated with reimbursement of legal fees.

I have reviewed the recently introduced legislation by Congresswoman Velazquez, and I believe that Congress should pass this legislation or adopt many of these ideas into the final reauthorization bill. That bill, and my proposals here today, are common-sense reforms which will lead to a stronger and more cost-effective NFIP.

To summarize my comments here today, getting it right from the start is the key which will allow a quicker and stronger recovery, as well as a more resilient future.

[The prepared statement of Ms. Luckman can be found on page 73 of the appendix.]

Chairman DUFFY. Thank you, Ms. Luckman. The Chair now recognizes Mr. Terchunian for 5 minutes.

**STATEMENT OF ARAM V. TERCHUNIAN, COASTAL GEOLOGIST
AND ENVIRONMENTAL SCIENTIST**

Mr. TERCHUNIAN. Good afternoon. My name is Aram Terchunian, and for 35 years, I have been helping people identify coastal risk, mitigate coastal risk, and recover and adapt when risk becomes reality. Thank you to Chairman Duffy, Ranking Member Cleaver, my Congressman, Lee Zeldin, and the subcommittee for this opportunity to speak on the topic of flood insurance reforms. Congressman Zeldin has been a true leader in working with our communities and the U.S. Army Corps of Engineers to help to mitigate against future disasters.

The NFIP has helped save lives, properties, and resources through a classic carrot-and-stick program of incentives and regulations. However, changing technology, science, and policy have created new opportunities to improve that system. In a nutshell, newer buildings that are constructed and maintained to the NFIP standards and ICC building codes are experiencing far less flooding damage than older legacy homes that do not meet present stand-

ards. Moreover, those areas protected by well-designed, built, and maintained flood risk reduction projects, such as beach and dune restoration, experience significantly less damage during extreme events.

The goal, in my opinion, is to decrease the number of pre-FIRM substandard structures and increase flood protection and resiliency projects. West Hampton Dunes is a small, 2-mile village on the barrier island of Long Island. In 1992, a coastal storm pierced the island, creating a one-mile inlet and destroying almost 300 homes. At the time, West Hampton Dunes was used as the poster child for how to mismanage a beach. Today, this humble community is the blueprint for coastal management and flood insurance modernization. It is a net economic generator to the local, regional, and national economy, as well as the NFIP premium pool. The barrier island was rebuilt through a beach and dune project engineered and supervised by the U.S. Army Corps of Engineers. The Village then embarked upon an aggressive program of sand fencing and beach grass planting that increased the dune. The Village also implemented zoning measures that allowed property owners to build as much as 4 feet above the NFIP 100-year flood level without a zoning variance.

In the 22 years since the project was constructed, there have been zero houses lost and only minimal flood damage claims, even after Superstorm Sandy. This is an example of how integrating flood protection projects with locally implemented NFIP and zoning regulations, and locally driven beach and dune enhancements, resulted in a resilient community that is a net benefit to the NFIP.

Conversely, surrounding communities that did not have an engineered flood protection project, and were populated by a substantial number of pre-FIRM buildings, suffered terribly during Sandy. The human anguish in these areas exceeded even the substantial flood insurance, infrastructure, and natural resource losses.

Local communities are incentivized if they can provide increased flood and erosion protection to their community at minimal cost. However, many communities do not have the technical staff to prepare and review the community rating system applications. Aid to those communities and simplifying the CRS application process would benefit many policyholders at a small cost. Rewarding communities that streamline permitting under local zoning code when complying with NFIP flood mapping removes a tremendous cost and time impediment for homeowners. Pre-disaster mitigation planning is not being transformed into mitigation projects because of a lack of funds. The effect of recent premium increases is disproportionately impacting middle- and lower-income families. The payback period to raise an existing pre-FIRM home into compliance is too long. As a result, homeowners do not elevate their homes before experiencing flood damage. Post-disaster programs, such as the increased cost of compliance coverage, are insufficient to elevate a typical home on Long Island, where costs run up to \$200,000, and the program maximum is \$30,000.

Simply stated, we must convert more pre-FIRM homes to NFIP-compliant homes faster, and policyholders are the key to the process. Homeowners will elevate and flood-proof their homes before the flood if it is in their immediate financial interest. The financial

stick of increased premiums without a commensurate financial carrot will not work. It is not reasonable to expect a consumer to invest up to \$200,000 for an annual payback of \$4,000 to \$5,000. In summary, the NFIP plays a critical role in protecting the citizens of our Nation. Thank you very much.

[The prepared statement of Mr. Terchunian can be found on page 85 of the appendix.]

Chairman DUFFY. Thank you. The Chair now recognizes Mr. Berginnis for 5 minutes.

**STATEMENT OF CHAD BERGINNIS, EXECUTIVE DIRECTOR,
ASSOCIATION OF STATE FLOODPLAIN MANAGERS**

Mr. BERGINNIS. Thank you, Chairman Duffy, Ranking Member Cleaver, and members of the subcommittee for holding this important hearing and inviting the Association of State Floodplain Managers (ASFPM) to testify. I am Chad Berginnis, executive director of ASFPM, whose 17,000 members include many of the boots-on-the-ground State and local officials who implement the NFIP.

I will begin by saying that the NFIP is the Nation's most widely implemented flood risk management program. In fact, I almost wish it had a different name because it works to reduce risk in four important ways: making publicly available mapping to show risk areas; community adoption and enforcement of flood risk reduction standards; risk reducing mitigation of existing at-risk structures; and finally, the sale of flood insurance.

The program benefits not only policyholders, but the public and communities. For example, buildings compliant with NFIP standards result in nearly \$2 billion a year in losses avoided nationally. The 1.2 million miles of flood mapping in the country allow not only policyholders, but citizens, emergency managers, planners, public works officials, and others to know the flood risks in their areas and to take action to reduce those risks.

Mitigation programs, increased costs of compliance, and flood-mitigation assistance are cost-effective, resulting in \$5 in benefits for every \$1 invested, and have provided \$1.3 billion in mitigation funds for reducing risks of thousands of structures since 1997. These measures not only help individual property owners, but strengthen neighborhoods and communities, and reduce blight.

I say all of this to convince you that this nearly 50-year-old program has very important benefits that serve taxpayers and policyholders alike. Our written testimony offers 20 specific reform ideas, and for the balance of my testimony, I want to highlight four of the areas that are most important to ASFPM.

The first is to deal with the debt, and not only the current debt, but also to create long-term solutions to ensure that we effectively deal with catastrophic events in the future.

The second is to reaffirm the commitment and enhance the Flood Mapping Program. One of the most critical and important elements of the 2012 Biggert-Waters Reform Act was the authorization of the National Flood Mapping Program. It was the absolute right policy, yet we have not yet finished the job of mapping the country. Chairman Duffy, many of the flood maps in your rural district are not modernized. The problem is that the priorities of the mapping program to date have been to map existing at-risk areas. As a re-

sult, mapping never gets ahead of development, while these areas are still cornfields, and instead, sets up a dynamic that makes everybody mad.

When development occurs, the floodplain is put on an area by FEMA, and everybody down the line from property owners to REALTORS® to local officials are upset because they are now not only in the floodplain, but have to deal with flood insurance standards after the fact. We still have 2.3 million miles of unmapped streams, rivers, and coastlines in the United States, many residual risk areas that are not mapped, and some mapping information that is not publicly available. We must do better and we need your help.

The third is to strengthen the mitigation components of the NFIP and to use them more often in a pre-disaster setting. This is particularly true with increased cost of compliance. Additionally, ICC should be expanded in application and scope, including raising the maximum ICC amount, and clarifying that it is available in addition to the maximum claim amount.

Finally, ASFPM believes there are reforms needed related to private insurance and that they should be focused on ensuring that other elements of the NFIP are not weakened, and that the NFIP and private flood are on equal playing field, and that through competition and cooperation, we grow the overall policy base. To this end, there are two critical reforms. The first is a requirement that all private policies sold to meet the mandatory purchase requirement of the NFIP include an equivalency fee that is equal to the Federal policy fee on NFIP policies. Currently, this fee pays for 100 percent of the floodplain management in the NFIP, and roughly 50 percent of the mapping budget. If the NFIP ultimately loses policies due to competition, there will be fewer resources to help communities and States with floodplain management and mapping.

The second is a requirement that private flood insurance policies meet mandatory purchase requirement to only be sold in NFIP-participating communities. Currently, most communities in the country participate in the NFIP, so while the private market is in the early stages, let's enlist private industry to be partners to encourage communities to stay in the program.

Because our members have enrolled nearly all of the 22,000 communities in the NFIP, we uniquely understand their reasons for joining. The primary reason is accessibility to flood insurance. ASFPM fears that if private flood insurance is available with no requirement to join the NFIP, communities could drop out of the program. Thank you for listening to our concerns, and we will be happy to answer any questions.

[The prepared statement of Mr. Berginnis can be found on page 38 of the appendix.]

Chairman DUFFY. Thank you. The Chair now recognizes Mr. Hecht for 5 minutes.

**STATEMENT OF EVAN HECHT, CHIEF EXECUTIVE OFFICER,
THE FLOOD INSURANCE AGENCY**

Mr. HECHT. Thank you, Chairman Duffy, Ranking Member Cleaver, and members of the subcommittee. My name is Evan Hecht, and I am the CEO of the Flood Insurance Agency. Thank you for this opportunity to testify. The mission statement of my

company is to provide affordable flood insurance to the maximum number of property owners and business owners in the United States. We have been an active marketing participant of the Write-Your-Own National Flood Insurance Program for almost 30 years. For the past 3½ years, we have underwritten and distributed private market flood, an alternative to FEMA flood insurance.

We are one of the largest, if not the largest, writer of private flood insurance currently in the United States, providing over \$3.5 billion of property coverage to more than 18,500 consumers.

Private flood insurance alternatives to FEMA's NFIP have now become commonplace. They first became available simultaneously with the unintended consequences of the Biggert-Waters Flood Insurance Reform Act in October of 2013. Our company is just one private market provider, and every day, we renew a previously written policy every 6 minutes, and we write a new policy every 10 minutes. The general public's knowledge of the existence of alternatives to the NFIP is readily evidenced, considering a unique user visits our website every 52 seconds.

While it is understandable that some might believe the private market would only want to write FEMA's best risks, and leave all the poor risks in the NFIP, from our point of view, almost exactly the opposite is taking place. Nearly all of our 18,500 risks were FEMA-subsidized policies, the policies FEMA believes are 45 to 50 percent underpriced. Our risk selection is based on reports from the GAO to Congress summarizing total premiums received and claims paid from 1978 to 2011, comparing actuarial results to subsidized results.

The subsidized premium increases over the past 10 years have far outpaced the actuarial premium increases during the same time period. I have provided three examples of actual rate increases. An actuarially rated policy for a property in California has increased 65 percent over 12 years, while a subsidized rated policy written in Illinois has increased 153 percent over 11 years, and another subsidized rated policy written in Louisiana has increased 285 percent over 10 years. All of our 18,500 private market flood policies are written with Lexington Insurance Company, a member of AIG, or Lloyd's of London. Both are surplus lines insurers.

More than 2,000 of our policies are in Pennsylvania. Pennsylvania Insurance Commissioner Teresa Miller, in her recent letter to interagency financial regulators states: "I would note that even with the increased surplus lines activities for residential coverage over the past 11 months, the Pennsylvania Insurance Department has not received a single complaint concerning a surplus lines carrier."

The recent flooding in and around Baton Rouge, Louisiana, is the fourth most costly event in the history of the NFIP, and was a good test case for the surplus lines private flood market—381 of our private policies suffered flood damage, totaling over \$30 million. Our average time to settle a claim was 66 days. To the best of my knowledge, zero complaints have been filed with the Louisiana Department of Insurance. I have included, in my written testimony, two of the many testimonials clients take the time to post on our website, one saving a client enough money to stay in their home,

and the second, offering to cook us dinner due to a positive claims experience.

I urge Congress to pass the Flood Insurance Market Parity and Modernization Act that passed the full House of Representatives with bipartisan support during the last session. This legislation provides much-needed clarity to support the growth of a robust private marketplace.

I thank the members of the subcommittee for allowing me to testify before you today. I wholeheartedly support your mission and offer you my continued efforts should you request them.

[The prepared statement of Mr. Hecht can be found on page 58 of the appendix.]

Chairman DUFFY. Thank you, Mr. Hecht. And thank you to the whole panel for your testimony. The Chair now recognizes himself for 5 minutes for questions.

Mr. Hecht, as you mentioned, Mr. Ross has a piece of legislation which passed in the last Congress—and he has introduced it in this Congress—making it easier for lenders to accept private flood insurance. Do you think his bill will go a long way to helping us create a private market?

Mr. HECHT. I do, Mr. Chairman. The bill does two very important things: it clarifies that surplus lines insurers would qualify as acceptable private policies; and the very last paragraph of that bill talks about recognizing private policies as continuous coverage so that someone leaving the National Flood Insurance Program coming into the private marketplace would have the ability to go back into the National Flood Insurance Program with no penalty. Both of those would help a robust private market.

Chairman DUFFY. And so beyond Mr. Ross' bill, anything else you think we could do or should include in legislation that would help develop a private market? If not, that is okay. This is the silver bullet.

Mr. HECHT. I think that there are interpretations currently that FEMA is making that are detrimental to a private market. FEMA has taken three very specific actions just since we started writing policies that make it much more difficult. First, they removed a cancellation provision. Previously, an NFIP policy could be cancelled and replaced with a private market policy. Policies can no longer be cancelled for that reason.

Second, policies that are prepaid, so a FEMA flood policy when it renews, the Write-Your-Own companies, or the NFIP direct, issues renewal bills for those policies 65 to 70 days before the policy renews. Most policies are escrowed by lenders. When the lender pays the renewal premium, sometimes 60 days in advance, sometimes 45 days in advance, FEMA has taken the position that once that policy goes into force, the policyholder is no longer allowed to cancel that policy.

Chairman DUFFY. Does the private market work like that?

Mr. HECHT. No.

Chairman DUFFY. I want to quickly move on to a couple more questions. Roy Wright testified last week, and he commented that compensation for Write-Your-Owns could be decreased. Do you agree with that?

Mr. HECHT. I absolutely agree with that.

Chairman DUFFY. What would a competitive compensation be for the Write-Your-Owns, do you think?

Mr. HECHT. We pay every one of our 2,000 agents a 10 percent commission.

Chairman DUFFY. How much?

Mr. HECHT. Ten percent.

Chairman DUFFY. Ten percent. Okay. I want to move on to the repeated-loss properties. Mr. Terchunian, basically, we have 85,000 properties that account for 24 percent of the losses of the NFIP, or basically 2 percent of properties that account for 24 percent of the loss. Some have said, well, listen, if you are paying for a property's value 2 or 3 times, shouldn't you be taking some action to move them out of the flood program, or do we have to spend dollars up front to help mitigate these properties? But what do you think we should do with this small number of properties that account for such a large portion of the cost of the NFIP?

Mr. TERCHUNIAN. That is the case across-the-board, how do you deal with this repetitive-loss issue? Clearly, if you have that small a number of properties, I think you can focus an extreme effort into sitting down with each one of those property owners and trying to help them through the process of getting their homes elevated. I have dealt with a lot of property owners after the fact who are just thrilled with the fact that they got their house elevated. They are so much more comfortable. They are so much happier where they are after the fact, but you couldn't get them there before the disaster. We are talking about people who have repeated the same thing over and over again. I really believe that you need, in the same way the NFIP does it now, a carrot and a stick. Listen, we will help you, and this is the path to get it done. If you don't want to do it, it is going to cost you more money.

Chairman DUFFY. Okay. Back to Mr. Hecht. Looking at new construction, if we stand up a private market, at some point in the future, whether it is 3 or 4 or 5 years down the road, do you have an opinion on whether new construction should be allowed into the NFIP, or new construction should be driven to the private market? And could the private market take those newly constructed homes?

Mr. HECHT. I listened to Mr. Wright come up with that suggestion. I don't agree with the suggestion. I don't know of a way that you would make it mandatory for the private market to insure those properties. If they are not eligible to be insured in the National Flood Insurance Program, how can you guarantee that they are going to have coverage at all?

Chairman DUFFY. Then should they be built?

Mr. HECHT. I think you are talking about something that is already built.

Chairman DUFFY. No. I am talking about new construction.

Mr. HECHT. Right. So you mean you would need to have flood insurance prior to getting a building permit?

Chairman DUFFY. We will circle back. My time is over, and I want to be respectful. I am now going to recognize the gentlelady from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman, and thank you, Mr. Cleaver, for allowing me to go next.

Ms. Luckman, you and I agree that policyholders should have advance notice of an adjuster or engineer who is coming to inspect a flood claim, and be provided with an opportunity to veto and request reassignment. I have included this idea in my legislation, H.R. 1423. Can you explain why this reform is necessary in light of the fraud and underpayment of claims that took place after Sandy?

Ms. LUCKMAN. What happened after Sandy was we saw the same bad actors repetitively hitting multiple homes on the same block, and they really—they weren't punished at all. I think that homeowners should have advance notice of who is going to be assigned to their claim with the reasonable opportunity that they can research that company, and see if they were connected back to Hurricane Sandy fraud, and see if there is some other type of fraud. And what we have seen working at the clinic is that a lot of this information is available online. So I think it is only fair that a homeowner has a reasonable opportunity to look into those adjusting and especially engineering companies. An engineering report can make or break a flood insurance adjustment when you are talking about a foundation. So they should absolutely be provided with that right.

Ms. VELAZQUEZ. Thank you. Ms. Luckman, following Sandy, a number of New York policyholders who have been denied coverage, or suspected their claim has been underpaid, feel they do not have the financial resources to assert a legal claim against the Write-Your-Owns. In response, my legislation provides for the reimbursement of legal fees and litigation expenses for prevailing policyholders. Do you think the reimbursement of legal fees and litigation expenses will level the playing field for policyholders against the Write-Your-Owns, and empower them to pursue a potential claim?

Ms. LUCKMAN. Yes. Reimbursement of legal fees would be a huge advantage for homeowners. My clinic is State-funded. We are permitted to cover all filing and litigation costs for our homeowners, which can run upwards of \$800 to \$1,000. Many of these homeowners who were shortchanged immediately post-storm, they did not have those funds to go into Federal court and to pay those fees. So if a homeowner knows that they have acted in good faith, they have submitted a claim, and they have gone through the appeals process, and they are still being improperly underpaid, if they know that they can have legal costs reimbursed, it will level the playing field. And I think that, quite honestly, it would put some skin in the game for the Write-Your-Own carriers, who, right now, they are not any loss. Unfortunately, the Federal Government covers their legal costs, and there is no one left helping these homeowners with their litigation costs.

Ms. VELAZQUEZ. Thank you. And my last question, Ms. Luckman is, following Sandy, a number of policyholders voiced complaints regarding the coverage they thought they had, versus the coverage they actually had. In response, my legislation, H.R. 1423, calls for a disclosure document, an acknowledgment document or company, the purchase of a standard flood insurance policy. Based upon your work with Sandy victims, will these documents provide policy-

holders with a better understanding of what is and is not covered under the flood policy?

Ms. LUCKMAN. Yes, absolutely. A separate acknowledgment that a homeowner and a sales agent would have to execute at the time that they take out a National Flood Insurance Program policy would absolutely make them more educated on what their coverage is on the home. What we saw after Sandy was a lot of litigation from homeowners against their sales agents. They were really not aware of whether they had contents coverage, whether they didn't, what the basement limitations were. Many homeowners unfortunately were carrying \$250,000 of structure coverage when maybe they didn't necessarily need that coverage because they didn't have a mortgage, and then we saw a lot of lawsuit filed against sales agents.

So I think a separate acknowledgment form would protect everybody. I think it would protect the sales agents selling the National Flood Insurance products. I think it would protect the homeowners, so at least that they are on notice, that they are aware of what their policy says and what their true coverage is. And I think it results in less litigation, which would benefit the National Flood Insurance Program.

Ms. VELAZQUEZ. Thank you. I yield back.

Chairman DUFFY. The gentlelady yields back. The Chair now recognizes the Vice Chair of the subcommittee, the gentleman from Florida, Mr. Ross, for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman. Mr. Hecht, I appreciate your testimony because it seems to me that what your insurance company is doing is that they are actually assessing the risk independent of FEMA. Is that pretty accurate?

Mr. HECHT. That is accurate.

Mr. ROSS. And in that assessment of risk, you look at the subsidized risk as opposed to the actuarial adequacy of the risk, and it appears as though, and according to your testimony, that the bad risks are really being accepted by the private market. Is that also correct?

Mr. HECHT. Correct.

Mr. ROSS. And in defining your rate—and I am not asking you to give up anything proprietary—you look at factors, or would you look at factors other than just elevations and mapping that FEMA does?

Mr. HECHT. Yes.

Mr. ROSS. In fact, you probably get a little bit more granular, don't you?

Mr. HECHT. Yes.

Mr. ROSS. Because your capital is at risk, is it not?

Mr. HECHT. Correct.

Mr. ROSS. And you want to make sure that what you do is right, not only for the consumer, but also for the capital that you are trying to protect?

Mr. HECHT. Correct.

Mr. ROSS. Which is why we call it insurance, because it is risk management and not relief, which is what I think a lot of people expect when they pay subsidized policies, is relief instead of insur-

ance. And getting back to insurance, what incentives do you offer for mitigation, if any?

Mr. HECHT. We do not have a mitigation offer at this point. We do have credits for deductibles. We do have credits for—

Mr. ROSS. So you can have different various deductibles?

Mr. HECHT. We do. We also give credit for insuring a home fully to value.

Mr. ROSS. You go over the \$250,000?

Mr. HECHT. We do.

Mr. ROSS. And you do your own claims management, too, don't you?

Mr. HECHT. We do.

Mr. ROSS. So you have over 2,000 agents selling, and you have your own claims management, and you testified today that you can, in one case, you resolved all those claims within an average of 66 days, which is pretty phenomenal, isn't it?

Mr. HECHT. 66 days was satisfactory, yes.

Mr. ROSS. But you are in the private market, okay, which is why we need you. And we talked about the Flood Insurance Market Parity Act, and I appreciate your comments on that, and I appreciate the chairman's comments on that. Would it not be appropriate to get this put into law sooner than the expiration of the National Flood Insurance Program at the end of September?

Mr. HECHT. It affects us every day, Congressman. It would help us if it were passed immediately.

Mr. ROSS. And not only would it help your company, but it would also help the consumers, and it would show this Congress that the private market not only has the capacity, but the appetite to enter this flood insurance market that is affordable and available to all consumers?

Mr. HECHT. I am an advocate of your legislation.

Mr. ROSS. Thank you. Let's talk about something else. One of the things that Roy Wright testified to last week was that 50 percent of those who are receiving policies, who are in mandated flood insurance zones, let their coverage lapse, and there seems to be no enforcement. Does anybody on the panel have a suggestion as to how we maintain continuous coverage so we don't have a lapse in coverage and an even greater liability to the National Flood Insurance Program? Ms. Luckman, I will start with you.

Ms. LUCKMAN. With regard to coverage lapses, I think that homeowners need to be aware of their renewal timeframe, and I think that better notice needs to go out to them. I believe right now they get a 90-day notice.

Mr. ROSS. And that is a notice from FEMA, right?

Ms. LUCKMAN. Right. I believe that is a notice that has to go from Write-Your-Owns (WYOs) or the NFIP—

Mr. ROSS. And it should go to additional insureds, should it not, such as the mortgagee?

Ms. LUCKMAN. Absolutely.

Mr. ROSS. And there should be an enforcement of that, should there not be?

Ms. LUCKMAN. Absolutely.

Mr. ROSS. Mr. Terchunian?

Mr. TERCHUNIAN. Again, thank you, Mr. Ross. I think your question is dead on point. We all get mortgage statements, and associated with that is the homeowner's insurance, and if you don't have it, the bank gets it for you and bills you. I don't see why we can't do it the same way with flood insurance.

Mr. ROSS. I agree. Almost like an escrow?

Mr. TERCHUNIAN. Exactly.

Mr. ROSS. At least we know we maintain coverage.

Mr. TERCHUNIAN. Exactly.

Mr. ROSS. Mr. Berginnis?

Mr. BERGINNIS. This has been a recognized issue within the program in every reform at least since 2004. I might suggest that at least when you look at the buckets of the mandatory purchase, you certainly have the regulated lenders, but you also have direct agency lending. And then you also have kind of this thing that is over here where folks who receive disaster assistance are supposed to purchase and maintain coverage as well. And at least in those latter two areas, we really do kind of question the amount of oversight that is being exercised right now.

Mr. ROSS. So we need greater oversight of the continuous coverage?

Mr. BERGINNIS. Yes, sir.

Mr. ROSS. I agree with that. Mr. Hecht, any suggestions?

Mr. HECHT. I think the percentage of penetration of mandatory purchase is understated. There is a robust lender-placed—

Mr. ROSS. Forced-placed?

Mr. HECHT. Forced-placed, flood insurance, and I believe that is where a lot of those policies are.

Mr. ROSS. So would the forced-placed be through the private market, or would it be through the NFIP?

Mr. HECHT. It could be through the NFIP, through the MPPP program, but 99 percent of it currently is in the private market.

Mr. ROSS. I appreciate that. My time is up. I yield back.

Chairman DUFFY. The gentleman yields back. The Chair now recognizes the ranking member of the full Financial Services Committee, the gentlelady from California, Ms. Waters, for 5 minutes.

Ms. WATERS. Thank you very much, Mr. Chairman. I really do believe that we need to have some major changes in the National Flood Insurance Program, and I am absolutely focused on the debt and trying to understand why it is that we have a \$25 billion debt that we are paying \$400 million a year interest on that debt, a total of \$6 billion in principal and interest since 2006. And if I understand correctly how the program operates, when FEMA needs money because of the catastrophes that we have, we have to go to the Treasury and we have to borrow the money. And so we are paying interest to the Treasury, and we go back and borrow from the Treasury, and we have a \$25 billion debt, and we have this relationship that doesn't make good sense to me. I want to know from Mr. Berginnis, don't you think it is time we forgive this debt, and if we forgive the debt and we were not paying this interest, couldn't we put that money into mitigation? What do you think?

Mr. BERGINNIS. Yes, Congresswoman, absolutely yes. In the history of the program, I think it is important to recognize that the program, as designed, was not designed to deal with the cata-

strophic loss here. And, in fact, in the 1980s, there were a couple of times that Congress did forgive the debt in the program. But then from the late 1980s to 2004, the program operated as it was designed to. Of course, we had the Florida hurricanes and Hurricane Katrina, and the debt skyrocketed from that point. One of the points in our testimony is that had Congress forgiven the debt at the time, and I believe the debt was about \$18.5 billion then, then there would have been resources available likely in Sandy and even in 2016 to pay the claims that we have.

This issue of not dealing with the debt, not only do we need to address it from the standpoint of the current program right now, but we need to have a longer-term framework to deal with catastrophic losses, because even though FEMA has implemented the financial risk management tools that Congress has required of it, I am still concerned about these catastrophic events.

Ms. WATERS. Okay. As I understand it, there are several ways that mitigation is done. Some mitigation is done by FEMA. Some is done by the Army Corps of Engineers. And I think I talked to some locals down in Louisiana at one point when I visited, about them participating in mitigation efforts. How does this all work? Does the Corps of Engineers work with FEMA to make some determination about what mitigation can be done and where?

Mr. BERGINNIS. It works in a variety of ways. Typically, in larger mitigation projects for bigger communities, communities will tend to work with the Corps of Engineers a little bit more. They can work with them exclusively. But the FEMA mitigation programs are available across the country to communities large and small, so we tend to see that smaller communities will tend to utilize the FEMA mitigation programs. There are some cases where the mitigation project may implement several different kinds of methods, and you actually match funding for multiple programs, and then supplement that with local resources. So it really can vary widely across the country, but that is also why we need the different authorizations for mitigation.

Ms. WATERS. Lastly, I want to ask—I think there is something that I agree with Mr. Duffy on, and this is quite unusual, but I understand he may be interested in limiting development in floodplain areas. I think I agree with that. What do you think?

Mr. BERGINNIS. One of the original purposes of the program was to steer development away from high-risk hazard areas, and it is the one unfulfilled part of the program itself. And so, to the extent that the program can help make that a reality, we would definitely agree with that.

Ms. WATERS. Thank you. I yield back.

Chairman DUFFY. The gentlelady yields back. We agree on more than just that, Ranking Member.

The Chair now recognizes the gentleman from California, Mr. Royce, for 5 minutes.

Mr. ROYCE. Thank you, Mr. Chairman. Mr. Hecht, you testified that, of course, no private market provider will choose to write FEMA's severe repetitive loss properties, and really, that is no surprise, because repeatedly, flood properties make up 1 percent of those insured by NFIP, but it represents 25 to 30 percent of all the flood claims, and so they are not a good risk for private insurers,

or for the American taxpayer. And today, Congressman Blumenauer and I introduced a bill, H.R. 1558, the Repeatedly Flooded Communities Preparation Act, and the concept here is to proactively reduce flood risk, instead of continuing our current model of rebuilding these properties over and over again. The way we do it, and let me just give you by way of example, we have a couple of cities here, Tulsa and Charlotte, both have had very pronounced success in decreasing flood risk, because what they did was proactively take on a plan for storm water management—that is the first thing they did; promoting voluntary buyouts, sometimes that can be effective; reviewing new development proposals for flood impacts every time one came up; and steering development away from risky areas.

So that is part of their plan. Many of their peers, though, many of the other cities and communities have not kept up with that kind of approach. So what this bill would require is that communities with a large amount of repeatedly flooded properties implement plans to have that city council or those counties put forward that plan for lowering flood risk, and then in terms of keeping the records, holds them accountable for failing to act. That is what the bill does. And I would just ask for thoughts on this issue, and I also would ask Mr. Hecht a follow-up question here that I wanted to get to, and that is, do you think the home-buying public truly grasps flood risk? Is this registering with them? Do they understand how subject to hazard their property is when they talk with their REALTOR®? Do they understand how flood risks change over time when areas nearby are developed, or when a forest fire might occur? And so, maybe I could ask the panel also on that aspect about recommendations for how we can change this lack of education on flood risk? Besides just what we can do at the county level or city level, how do we improve takeup rates for flood insurance and strengthen these mitigation efforts?

Mr. HECHT. Let me address both of your questions. My statement that, of course, we would not want to write severe repetitive loss properties is a statement that we would not want to write severe repetitive loss properties at rates that were competitive with FEMA, because FEMA charges much too little for the severe representative loss properties. In the Wharton study last year regarding consumer recognition of flood risk, consumers actually think their property is going to flood more than it actually does. They overestimate that, but they underestimate the amount of damage that an actual flood would do.

Mr. ROYCE. Would any other members of the panel like to jump in on that?

Mr. BERGINNIS. Congressman Royce, we have taken a look at the legislation that you and Congressman Blumenauer have introduced, and actually, we are supportive, and one of the things that we like about it is that it does have a measure of accountability. Under current law, which comes from the Stafford Act, community mitigation plans are required to, at least, assess how many representative loss properties there are, but it doesn't really require them to do anything about it. So I think the innovative element to this legislation is that it does have some requirements there to ac-

tually do some planning and actually mitigation of those or face some potential consequences.

In terms of the broader education and awareness of risk, and I go back to a statement I made in my testimony, we have to, first of all, map all of these areas in the country. Oroville Dam, I think, is a great example in California: 200,000 people evacuated, far beyond what the mapped floodplain showed. Yet how many of those people knew that they were in basically either a dam failure or dam release inundation zone? Probably none of them, because that information, while it has been produced, is not publicly available.

Mr. ROYCE. Thank you. I thank the panel. Our time has expired. But transparency is part of this answer. Thank you very much, Mr. Chairman.

Chairman DUFFY. The gentleman yields back. The Chair now recognizes the ranking member, the gentleman from Missouri, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman. Ms. Luckman, thanks for being here. Ms. Velazquez was talking about how helpful you had been to her community after Sandy. And she assured me that if I asked you this question, you were going to answer it in the fashion in which I wanted.

We are seriously—and I think the chairman of the subcommittee would agree—dealing with the issue of mapping and mitigation activities. And so when we learned today that the President zeroed out in his budget discretionary appropriations for NFIP's map of the mitigation activities, because we think that it would be devastating, what do you think we can do to enhance the program if it is zeroed out?

Ms. LUCKMAN. I think this really goes back to education. I think if that, unfortunately, is the end result of his budget, I think we need to look to other sources of education that would or could appropriately advise a homeowner or a policyholder of their flood risks.

Something that my statement speaks to is NFIP-certified agents. So I think that if you have a standardized education that is required by the NFIP, that information can be given to homeowners upfront, I think that would at least provide them with the same information that mapping and risk evaluation would.

Mr. CLEAVER. But it wouldn't—they are still going to have a serious problem, a homeowner problem. But—

Ms. LUCKMAN. I think the only way to reduce that problem would be to increase ICC, maybe the scope of increased cost compliance, maybe allow homeowners to mitigate now. Instead of waiting until post-disaster, being able to mitigate their properties pre-disaster, I think, would at least put them in a safer spot that would raise them out of the flood zone, the immediate flood zone.

Mr. CLEAVER. Mr. Terchunian?

Mr. TERCHUNIAN. On that same question, I think FEMA has come a long way in their mapping program. I am a user of that program, and my clients use it and call me up and say, I looked at my property, and we start talking about the level of risk.

That being said, just like in broadband, they need to go the extra mile. And I think that is an important aspect of bringing both the

education component but the actual mitigation component to the individual policyholder.

Mr. CLEAVER. I think probably there are a number of Federal agencies that use FEMA, use the mapping. They don't help pay for it. And now, nobody is going to pay for it if this is approved. Is this disastrous, Mr. Hecht?

Mr. HECHT. Mr. Cleaver, as part of my written testimony, I suggested, similar to Senator Warren yesterday and some of the other panel members, that private policies are assessed a fee, the same policy fee that the Federal policy has, and that we remit that money to FEMA to augment the money that you have for the mapping.

The private market is going to use independent mapping, but we are also going to have to rely on your mapping because of the mandatory purchase guidelines. So I am a big supporter of our participation in your effort.

Mr. CLEAVER. In your testimony, Mr. Terchunian, you mention that the cost of elevating a home in Long Island is between \$100,000 and \$150,000. And I think everybody would agree—or most of us would agree that elevation is the best way to mitigate against flooding. It is time-consuming and very costly. Is there any way we can improve homeowner mitigation efforts?

Mr. TERCHUNIAN. Yes, sir, Mr. Cleaver. I believe that we have to get ahead of the flood curve with these property owners. After a flood, there are so many different dislocations that occur: waiting for approval time; getting through the insurance process; and then having to go to a zoning board.

If we can figure out a way to incentivize the property owner before a flood occurs, their life will be better, their policies will be better, and we will be living in a safer community.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from New Mexico, Mr. Pearce, for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman.

I appreciate everyone's testimony today.

Now, the National Flood Insurance Program was created in 1968 because we didn't have a private flood line and it was trying to stop the tremendous losses to the taxpayer.

Mr. Terchunian and Mr. Berginnis, if I were going to kind of try to summarize your viewpoints, you both would sort of favor transitioning from a national flood insurance program to a national mitigation program, is that correct? I hear a really heavy emphasis.

Mr. TERCHUNIAN. I would have to say at least 50/50.

Mr. PEARCE. Okay. Mr. Berginnis?

Mr. BERGINNIS. Yes, definitely increasing the mitigation component would be helpful.

Mr. PEARCE. So, Mr. Berginnis, on page 9 of your testimony, you talk about the \$1.3 billion in mitigation. And getting about 2,000 houses per year for 5 years, that is—so is that all that the mitigation did or is the \$1.3 billion spread out?

Mr. BERGINNIS. The 1.3 billion was spread out. I did not have the data from FEMA to calculate the total amounts.

Mr. PEARCE. The 2,000 houses, just kind of accessories, they are in addition to everything else they did, or is that the focal point?

Mr. BERGINNIS. The 2,000 was just for a certain time period where I had the data for that.

Mr. PEARCE. I understand, but I am trying to get an approximate figure. Mr. Terchunian had said that it could cost up to \$200,000. And if I divide the number of houses, 10,000 into the \$1.3 billion, I get \$130,000 per house, which falls into his category, close enough for the discussion.

So when I just do the math in my head, do you have any idea how many houses out there that we need to mitigate?

Mr. BERGINNIS. There are a lot of them out there. I think what you have in terms of—

Mr. PEARCE. One million? 100,000?

Mr. BERGINNIS. In terms of repetitive loss and severe repetitive loss properties, we are probably talking about 160,000 houses.

Mr. PEARCE. 160,000?

Mr. BERGINNIS. But those are ones that have repetitive loss claims. That doesn't mean that is all the ones that are actually at risk. There is a lot of older buildings out there—

Mr. PEARCE. I understand, but I am just trying to get a feel for it.

Mr. BERGINNIS. So 160,000 could be the—

Mr. PEARCE. If we are going to convert this into a 50/50 program, we need to know what it is going to cost us, because—

Mr. BERGINNIS. Yes.

Mr. PEARCE. —you are not claiming that mitigation is going to stop the debt. In other words, if we were to pay off the debt completely, we are going to still owe debt in 3 or 4 more years because we are not going to be able to get everything done at once.

Mr. HECHT, do you have any policies up in that Long—or wherever Mr. Terchunian is talking about, the 300 houses. Do you all insure up in that Long Island area?

Mr. HECHT. We do not write policies on Long Island.

Mr. PEARCE. Okay. How about down in the area, Katrina area, right there in the—

Mr. HECHT. We do not write policies in New Orleans.

Mr. PEARCE. Okay.

Mr. HECHT. We do write policies in 36 States and 2,000 communities.

Mr. PEARCE. Okay. I understand. Of course, I haven't investigated it, but what I was getting at is, could there be an accusation by people who are critical of you that you kind of cherry pick through? Could you write a plan, just sitting here today, if we had enough time, could you write a plan that would insure everybody up and down the spectrum in the flood map—or in the NFIP program or is that too complex? Is that very complex?

Mr. HECHT. We would be able to write policies at premiums, but the premiums would not be competitive with FEMA. That is why we are not—

Mr. PEARCE. Okay. That is kind of what I am getting at. Right.

Then, Mr. Terchunian, you state on page 2 about the 22 years. I know there have been 10 events in that area. Have any of them squared up right on that same area where this is a good analysis? Has the mitigation defeated an event similar to 1992 that is the basis of your testimony on the first pages?

Mr. TERCHUNIAN. Yes, I would call Superstorm Sandy an equivalent of that.

Mr. PEARCE. Close enough. Fair enough. That is good enough.

Now, on page 5 in your testimony, you talk about—or page 6, that it is unreasonable to expect a consumer to invest \$200,000 for an annual payback of \$4,000 to \$5,000. So you then would want the taxpayer to do it. Would it be reasonable that the taxpayer, if they subsidize this, would get the first \$200,000 if they sell their home?

Because you are basically transferring value from people out in New Mexico who live in trailer houses. Fifty percent of my constituents live in trailer houses, and you want us to subsidize them, because it is unreasonable to expect them to do that for a \$4,000 to \$5,000 return in that area. My taxpayers are getting no return on it, and I don't know exactly how I would go back and convince them that that is reasonable. The term "snowflake" in New Mexico in July comes to my mind.

Thanks. I yield back.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentlelady from Ohio, Mrs. Beatty, for 5 minutes.

Mrs. BEATTY. Thank you, Chairman Duffy, Ranking Member Cleaver, Chairman Hensarling, and Ranking Member Waters.

First, let me just say thank you to all the witnesses here today. This is a good day for me because I heard my ranking member and Chairman Duffy agree on something we should do, and that just has inspired me so much, that I know if I would ask all of you—

Chairman DUFFY. Would the gentlelady yield? I don't know that I have agreed to anything here.

Mrs. BEATTY. I am doing this really for the chairman, not the subcommittee chairman; the chairman at the end. So I am going to say some really nice things today. And I think you will agree with me that, obviously, September is not that far away, and we certainly—I see you are nodding already—want to get this reauthorized. It certainly sounds like there are enough things that if we work together on, I think we could make this happen.

Would anybody disagree with that?

Okay. And you are all experts. So our experts, Mr. Chairman, are saying we have a lot of good things on both sides.

Now, I am from Ohio. I know we have an expert from Ohio. And so when I think about—in my conversations with Ohioans, there is a perception amongst some of them that the floodplain was expanded to subsidize higher-risk policyholders in maybe States like Florida or Texas. And I think many members of this committee, including myself, would like to see the private sector play more of a role in the floodplain insurance marketplace, because it could be especially beneficial to the pockets of Ohioans who are required to buy flood insurance.

I think my ranking member, Mr. Cleaver, kind of posed this question to you, Mr. Hecht, when he was giving his remarks. My concern is somewhat in the same light. And my question for you is, if we see private insurers take market shares from the NFIP and the proposed budget cuts to FEMA materialize, what would

happen to FEMA's budget in mapping and mitigation under this scenario?

Mr. HECHT. Well, I—

Mrs. BEATTY. I am going to go to Ohio first.

Mr. HECHT. Okay.

Mrs. BEATTY. I want him to either expand on what you were saying or agree or elaborate.

Mr. BERGINNIS. As I have included in my written testimony, the floodplain management function, again, that is technical assistance to States, to communities, the FEMA staffing, and the entire ball of wax is 100 percent paid for through that Federal policy fee. And so if we go from, let's say, 5.5 million policies that we had in the program to, let's say, 3 million, that is a significant reduction. Half of the mapping budget comes from that same Federal policy fee, so, again, the reduction would be significant.

On the mitigation side, one thing I would point out is that ICC has its own policy surcharge, so it is kind of on a per-policy basis. So it is not as sensitive to that other than, I think, the fact, to point out that if we do work to expand private insurance, that we would strongly recommend that one of the coverages that needs to be in place for private policies, especially in the A zones where codes are required, is something similar to ICC, like ordinance and law coverage, so that the property owner can access additional funding to mitigation.

Finally, the Flood Mitigation Assistance program is 100 percent funded through premium dollars. So, again, a substantial reduction in policies equals a substantial reduction in FMA funds.

Mrs. BEATTY. Thank you so much. I have a little less than a minute left.

Ms. LUCKMAN, what would be the one thing you would say to us—since in your written testimony you said you would like to see it reauthorized. You were very clear on that. What would you say to us to help us get there on time? Some of your colleagues have also said they didn't want to see it extended or short-term ranges. What would you say to us?

Ms. LUCKMAN. I do think it needs to be done in a timely manner. I think there are a lot of very minor administrative tweaks that I have spoken about that can be made very quickly. There is no cost associated with them, and it really does help the program run more smoothly.

And I also think that when we start looking at the relationship between the NFIP and the Write-Your-Own carriers, if we look to maybe implement some additional penalties NFIP can enforce against the WYOs or just bad actors in general that have been involved, whether they be adjusters or engineering firms, I think that it would expedite the process. I think that there would be safeguards in place for the NFIP and for all included agents.

Mrs. BEATTY. Thank you, Mr. Chairman.

Chairman DUFFY. The gentlelady yields back.

The Chair now recognizes the former Chair of this subcommittee, now the Chair of the Financial Institutions Subcommittee, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

And I thank the panel today. It is a great panel. You all are very informative, and I appreciate your being here.

Mr. Hecht, quick question for you. We had a great discussion so far on private sector involvement in flood insurance. What do you see as the capacity for the private sector to get involved? How much more—I think Mr. Berginnis a minute ago said 5.5 million policies in NFIP. How many of those do you think the private sector could absorb in, say, 5 years time, if there was ability to be—for instance, Mr. Ross' bill would pass and there would be able to be purity with the policies?

Mr. HECHT. That is really a question for the capital markets, not a question for the distribution system. We currently—we have written 18,500 policies. The capital markets that have provided us with capacity, we would be able to maybe double what we have written so far. At that point, we are going back to the capital markets and asking which other capital markets would like to provide capacity.

Mr. LUETKEMEYER. Okay. As a private insurance company, you have reinsurance, I guess?

Mr. HECHT. Now, I am—

Mr. LUETKEMEYER. You are the agent?

Mr. HECHT. Yes, I am an administrator. I am a program administrator and a cover holder, so I am not the insurance company.

Mr. LUETKEMEYER. Okay.

Mr. HECHT. So Lexington Insurance Company, part of AIG, they have reinsurance. It kicks in at a \$1.5 billion level. Some of our syndicates at Lloyd's of London have reinsurance that participates as low as \$1.5 million, so that is a 1,000 times difference in terms of a factor of 1,000, in terms of—

Mr. LUETKEMEYER. The reason for that is they just wanted—some can absorb the risk and others can't or—

Mr. HECHT. Correct.

Mr. LUETKEMEYER. Okay. Mr. Berginnis, you were talking quite a bit about mapping. And it has been mentioned here already today that the President looks like he is wanting to zero out the mapping efforts here.

One of the things—one of the ways that I think and what we are suggesting here that we can solve the problem is that if we allow the private sector to local communities, the local—whether it is city, county, subdivision, wherever it may be, to be able to map their own area. Today's ability of these communities to get this mapped is not within their ability to pay for it because the cost has come down so much. Is that something that could be done if you had a certain level of criteria there that would allow the local communities to do that?

Mr. BERGINNIS. So States and communities can actually do some of their own mapping right now under the FEMA program. It is called the Cooperating Technical Partners.

Mr. LUETKEMEYER. Right. Right.

Mr. BERGINNIS. And sometimes, like at the State level, they will actually do it in-house, but they can also contract with the mapping and modeling community that does a great job with that.

One of the things I would say, though, is that we are seeing the cost coming down. And one of the things that the FEMA flood mapping program, I think, that is a credit to them is to take advantage

of those latest technologies as well as experiment with those cheaper costs.

The Chair of our organization, Ceil Strauss, from the State of Minnesota, they are a CTP, and they are currently doing some large-scale mapping in rural Minnesota for as low as \$200 a stream mile. To do a detailed flood study, we are probably talking about—

Mr. LUETKEMEYER. Okay. Very good.

I have one more question I want to get to before my time runs out here.

I want to go back to Mr. Hecht. You were talking a while ago about actuarial rates. I know that Mr. Ross is from Florida and his State went to replacement cost rates based on the value of the home such that if you had a \$50,000 house, you would be based on the cost to replace the house versus a \$250,000 house. How would that structure work for you in your policies, you think?

Mr. HECHT. I am really not sure that I understood that question in terms of—

Mr. LUETKEMEYER. Okay. Do you settle claims at actual cash value or replacement cost?

Mr. HECHT. I'm sorry. Our policy is identical to FEMA's policy. It is word-for-word. So there are certain structures that qualify for replacement cost and there are certain policies that qualify for actual cash value.

Mr. LUETKEMEYER. Okay. With regards to the rates, what about—how would it affect the rates if you went to replacement cost rates and availability of that sort of coverage to the insured?

Mr. HECHT. The actual cash value settlement reduces claims by approximately 22 percent. So the rates would go up approximately 22 percent, again, on just those properties that are currently written at actual cash value. About 60 percent of our policies qualify for replacement cost, the same as the National Flood Insurance Program.

Mr. LUETKEMEYER. Okay.

Mr. HECHT. Commercial properties are at actual cash value. Non-owner-occupied residential structures are at actual cash value. Those are the ones that you're talking about.

Mr. LUETKEMEYER. Very good. Thank you very much.

My time has expired. Thank you, Mr. Chairman.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from Michigan, Mr. Trott, for 5 minutes.

Mr. TROTT. Thank you, Mr. Chairman.

I thank the panel for their interesting testimony. And I want to ask the entire panel—and start by thanking Mr. Hecht for your comments because it gives me confidence that the private sector can fill the void that we are hoping to solve by making this program sound.

But my concern is that 1.6 percent of the policyholders, so roughly 85,000 people of the 5.1 million, account for 24 percent of the claims. And so any solution has to deal with creating an actuarial rate that is going to make the program solvent. I am interested in your comments on how we can transition to that without creating sticker shock for the homeowners and how we can do it without

disrupting the real estate markets by causing the premiums to become unaffordable?

Mr. HECHT. I think anything—the rates for severe repetitive loss properties have to be coincident with the risk. If the policyholder is not going to pay for that risk, then it has to be dealt with in some kind of an entitlement program mode. The insurance companies are not going to subsidize that risk. The risk is what the risk is. We are not going to compete at the rates that FEMA is currently charging for that 1 percent of the policies.

Mr. TROTT. Any other panel members?

Mr. BERGINNIS. One of the things that we suggested is a mitigation surge, maybe where one or a couple-year appropriation to actually take care of those properties, mitigate those to where the flood insurance would be less expensive.

Mr. TROTT. To that point, though—and, Mr. Terchunian, you commented about the cost of raising a home, \$100,000 to \$200,000, and you had commented, one of you, that there are 160,000 properties potentially in that category. That is \$160 billion. Right? \$100,000. Let's round down and call it \$100,000 instead of \$130,000 or \$200,000. It is 160,000 properties, that is \$160 billion.

As an aside, since this hearing began, we have added \$150 million to our debt, so that is a little footnote. Is the mitigation really going to be part of any solution? Because that seems like a large number under any calculation.

Mr. TERCHUNIAN. The answer to the question is that we are paying it now, but we are paying it in post-disaster dollars, which are much more expensive than mitigation dollars. So, it is pay me now or pay me later. That is the situation the taxpayer is in right now.

And the gentleman from New Mexico asked, why should they be subsidizing people on Long Island? We are doing it, and we need to stop doing it. And the way to stop doing it is when you have—is to take—85,000 homes sounds like a lot, but it is not.

On the south shore of Long Island in Mr. Zeldin's district, we are going to elevate 4,500 homes in the next couple of years. Now, that was spurred on by Sandy, but that is a project that has been decades in the making. We can do this around the country if we boil it down to bite-sized pieces and take it on one at a time.

Mr. TROTT. Ms. Luckman, any—

Ms. LUCKMAN. Yes, I agree. I think mitigation is key, and I think it needs to be upon community resiliency. I think if you took communities one at a time, block by block, and if you mitigated those homes and elevated them, then we may be spending more money out-of-pocket right now, but it will definitely result in less flood claims down the line, less repetitive loss claims, and it would definitely benefit the future.

Mr. TROTT. Ms. Luckman, at the Law Center, how many people have you helped with their claims, to navigate that claims process?

Ms. LUCKMAN. Through the claims process, we had 10 cases that we took through litigation, and we have just over 100 claims in the Sandy claims review process right now.

Mr. TROTT. Okay. In how many of those claims, would you say, you saw abuse for the homeowners or unfair results in terms of how they were treated?

Ms. LUCKMAN. All of them. Right now, we have received—between litigation and the Sandy claims review process, we are over \$3 million that we have been able to put back into people's pockets. And we still have another 42 cases that need to go through that neutral level of review in the Sandy claims review process.

Mr. TROTT. Mr. Hecht, so let's fast forward maybe 10 years from now. Let's assume the private sector is playing a greater role. I am interested, if we got rid of the noncompete clause, would that—what impact that would have. And then long term, if we came up with a model that dealt with the repetitive loss properties in a fair manner so people could be transitioned and not lose their homes because of increases, do you see a need for the NFIP long term?

Mr. HECHT. I do see a need for the NFIP. The general principle of insurance is the distribution of risk. What the private market brings to the NFIP right now is a further distribution of risk. So whatever the percentage is, if the NFIP ended up with 80 percent of the risk and the private market ended up with 20 percent of the risk, it is spread so that the taxpayer is not on the hook for 100 percent. They are on the hook for 80 percent of a disaster.

Mr. TROTT. Thank you.

Chairman DUFFY. The gentleman's time has expired.

The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus, for 5 minutes.

Mr. ROTHFUS. Thank you, Mr. Chairman.

Mr. Hecht, I want to talk a little bit about your experience. I think \$3.5 billion in coverage for 18,000 customers, approximately?

Mr. HECHT. Correct.

Mr. ROTHFUS. So I guess you are one of the largest private flood insurers out there.

As you note in your testimony, there is an ongoing debate about whether private sector flood providers like yours would be prone to cherry picking as they begin to play a greater role in the industry. You seem to believe that cherry picking concerns are misplaced. Can you elaborate on why you disagree with this commonly held belief?

Mr. HECHT. Yes. Thank you for the question.

The last actuarial rate review that FEMA reported to Congress was in 2011, in substantiation of the 2009 rates. When we look at that review, the policies that FEMA says are actuarial produced \$121 of loss for every \$100 of premium. It had a 121 percent loss ratio. Their actuarial policies had a 121 percent loss.

The subsidized policies only had 114 percent loss. The subsidized policies are a better insurance risk to value for the private market. That was as of 2009. That is why, in my testimony, what I did was I substantiated that the rates for subsidized policies have increased at a much faster pace than the actuarial policies.

The subsidized policies are the policies that we now consider rate adequate. FEMA's worst performing category of risk was elevation rated A zones. For that 32-year period, the loss ratio was 163 percent. Their preferred risk policies, the loss ratio for that 32-year period was 133 percent. Yet their most hazardous classification of velocity, V zones, during that same 32-year period, the loss ratio was 47 percent.

As a private insurer, I want to write risks that are going to have a 47 percent loss ratio, not a 163 percent loss ratio. We are not cherry picking the risks. We think FEMA has it upside down.

Mr. ROTHFUS. Interesting.

We have often heard in this committee that the private sector needs access to more NFIP data in order to expand its role in the flood insurance market. Could you elaborate on what types of data would be useful to firms like yours?

Mr. HECHT. We do not have any granular level data now. Most insurance risks are written at an individual level. It does no good to know whether your high school class had 32 speeding tickets if you are going to underwrite an automobile policy. What is relevant is, does the driver that you are going to insure have a speeding ticket?

FEMA releasing claims data on a community-level basis does nothing for us to select risk.

Mr. ROTHFUS. You noted in your testimony that my home State's insurance commissioner, Teresa Miller, recently wrote that, "Even with the increased surplus lines activity for residential flood coverage over the past 11 months, the Pennsylvania Insurance Department has not received a single complaint concerning a surplus lines carrier."

Commissioner Miller's assessment suggests that private sector insurance providers can deliver a high level of service, maybe even better service than the NFIP. Do you believe that consumers are well-served by the NFIP in its current form?

Mr. HECHT. I think we can do a better job.

Mr. ROTHFUS. What are some of the common complaints that you hear from customers about their experiences with the NFIP?

Mr. HECHT. On our website, we allow consumers to post testimonials, and one, two, or three consumers take their time every single day to tell us what we are doing right. And our rates are lower, our service is better. A live individual picks up the phone, a live licensed agent counsels them on what insurance they need. We are there to make changes on their policy almost instantly when they request a change. Our claims were settled in 66 days. We simply do a better job right now.

Mr. ROTHFUS. Thank you, Mr. Chairman. I yield back.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from California, Mr. Sherman, for 5 minutes.

Mr. SHERMAN. Thank you.

Mr. Berginnis, the President's budget request which was released this morning would completely eliminate discretionary appropriations for the NFIP mapping and mitigation activities. How is that going to impact those activities?

Mr. BERGINNIS. It would be devastating. And the reason is that because mapping is the cornerstone of everything else the NFIP does, the mitigation, the land use, and even the insurance. And what will end up happening is that the inventory we have will begin to decay, because flood maps do have to be updated periodically, and we won't be able to do new flood mapping.

Mr. SHERMAN. And then how will that impact our ability to properly assess the risk to discourage building where it is particularly

dangerous and to properly assess the amount homeowners and others should pay for their insurance?

Mr. BERGINNIS. It will degrade that capability significantly, and that degradation will increase over time as the maps get older. And that—not unlike the situation we had in the late 1990s, before the map modernization program where Congress saw fit to invest more funding in mapping.

Mr. SHERMAN. In your testimony, you recommended that private flood policies include a fee equivalent to the Federal policy fee to help continue to pay for the floodplain mapping and the floodplain management standards programs. I just want to clarify with you your proposal.

Do you suggest that the fee apply only to policies written in special flood hazard areas or to all private flood policies?

Mr. BERGINNIS. We would think that, at a minimum, it should be associated with those in the special flood hazard areas, and kind of the hook to do that would be those needed to meet the mandatory purchase requirement.

Mr. SHERMAN. Do you have a suggested dollar amount in mind that you would recommend as the equivalency fee?

Mr. BERGINNIS. We call it the equivalency fee because it would be pegged at the same amount as the Federal policy fee so that the NFIP and private policies would be on the same playing field.

Mr. SHERMAN. And what impact do you think this new surcharge would have on private insurers' appetite to enter the flood market? What about the cost to consumers of private flood policies?

Mr. BERGINNIS. Certainly, there is going to be a sensitivity to cost on any insurance product. But I was actually quite happy to hear my fellow witness, Mr. Hecht, as the largest writer of private flood, recognize the value of the mapping and endorse the concept.

Mr. SHERMAN. And what impact do you estimate the surcharge would have on emerging technology or innovation in the mapping field?

Mr. BERGINNIS. I think it will have a positive impact, because when you have the resources to invest in mapping, you can investigate those emerging technologies. When you don't have the funds, you are essentially just trying to play catchup and really don't have the resources available.

Mr. SHERMAN. The President's budget request also proposes to restructure selected user fees for the NFIP in order to "ensure that the cost of government services is not subsidized by taxpayers who do not directly benefit from those programs." This sounds like the Trump Administration may be proposing to have NFIP policyholders pay the full cost of mapping activities because President Trump assumes that no one else benefits from those programs.

Can you talk about how FEMA's flood maps provide benefits for people in communities beyond just the NFIP policyholders?

Mr. BERGINNIS. Yes, absolutely. Actually, a colleague forwarded me a case study recently from the Louisiana flooding, where a person who was not even a policyholder was close to the Amite River. Their son was a REALTOR®, and the son began to talk to him about the potential need to evacuate and that there are these FEMA flood maps online.

And after they looked at the flood maps and determined that the crest was higher than what the map showed, it showed that all the evacuation areas were pretty much going to be blocked. And so it would help that individual, non-NFIP related, to actually evacuate, possibly saving lives and certainly saving property.

Mr. SHERMAN. I yield back.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from New York, Mr. Zeldin, for 5 minutes.

Mr. ZELDIN. Thank you, Mr. Chairman.

And first off, just on behalf of my constituents and everyone on Long Island who cares very deeply about this issue, I want to thank the committee for the countless meetings, conversations, the emails, all the questions that have been asked just to understand the practical impacts of the NFIP on individual lives.

This hearing is called, "Flood Insurance Reform: A Community Perspective." And this committee has focused a lot, since I joined it a couple of months back, on getting the impacts on each individual committee.

There was a lot of focus here today on mitigation. I would love to be able to take that to the next level. And if you wouldn't mind, Mr. Terchunian, I will put you on the spot first.

You mentioned how homeowners on the east end of Long Island, or a community like yours, West Hampton Dunes, make investments in mitigation. An important goal is to get clarity from FEMA as far as what mitigation will lower NFIP premiums and improve maps.

So taking this conversation to the next level, what is the most effective policy approach to make sure homeowners or municipalities who mitigate get a clear return on their investment? We are expressing our positions with regards to dollars that should be saved from mitigation. What should FEMA's response be as far as changing policy?

Mr. TERCHUNIAN. I think there are two groups who are affected by that: the entire community that is in the floodplain and is paying flood policies; and the individual policyholders themselves.

The FEMA rating process is reasonably opaque. I find myself often in conversations with the property owner, the private insurance agent, and we can't get the FEMA underwriter on the same telephone call with us to explain why things are being rated the way they are.

That process needs to change and needs to become utterly transparent, because there is poor predictability and I don't know whether it is because the rater is not hearing what is being said or it is not being communicated properly to them. But that entire process has too many layers. It needs to be much more direct so that the policyholder themselves, as Ms. Luckman said, understands what it is they are buying and what it is that they may want to buy.

The second aspect of it has to do with the community rating system (CRS). The community rating system is a great idea. It says, hey, listen, if you do a better job than NFIP requires, we are going to benefit everybody in the community. The problem is the CRS is a difficult program, and there is a lot of criteria in there that, at

least in my opinion, doesn't advance community resiliency, but you can't get to the next level without it.

So I think that process, number one, the CRS process needs to be simplified. I think it is too complex. And number two, small communities who don't have staff and can't afford to hire need to be helped through that process, and because CRS is one of the ways where you reach from the NFIP through the local community directly to the policyholder.

Local communities send out tax bills once or twice a year. There is no reason that the people who live in the floodplain can't get a notice in their tax bill, but it doesn't happen unless there is the linkage between the NFIP and the local community.

Mr. ZELDIN. And for anyone else on the panel, if you want to join in, is there anything that hasn't been said during this hearing of what FEMA should do to improve policy so that homeowners understand exactly what their investment and mitigation is going to return as far as a reduction of premium? Is there anything else as far as the FEMA end of things that we haven't discussed yet in the hearing?

Mr. BERGINNIS. I think one element is just increasing the level of property owner awareness of mitigation. It has been, in my experience and that of a lot of our members, that people don't necessarily know what to do. So they either talk to experts, maybe they talk to their floodplain managers. And so there really isn't a good mechanism right now to proactively educate property owners, even if they had the resources to do it, the fact that, okay, here is the risk and here is what you need to do to mitigate.

Mr. ZELDIN. And if in the days ahead, the weeks ahead, any additional insight on this mitigation component that wasn't brought up during this hearing, to be able to supplement your remarks here and your written testimony, I certainly would appreciate. I am sure—I can't speak for everyone else, but I would imagine everyone would appreciate that insight.

So thank you again, Mr. Chairman, for your focus on these issues impacting my congressional district, the greatest congressional district of America, New York One.

Chairman DUFFY. The gentleman yields back.

From the second greatest congressional district in the country, the Chair now recognizes the gentleman from Illinois, Mr. Hultgren, for 5 minutes.

Mr. HULTGREN. Thank you, Mr. Chairman.

Thank you all for being here. Again, this is a very important subject for all of us.

But I want to address the first question to Mr. Hecht, if I could. As you are aware, companies who write NFIP policies must sign a noncompete clause, which pushes those companies to the sidelines in terms of developing and offering private flood insurance policies.

Two-point question, if I could: One, could you discuss how this could derail efforts for private sector innovation and participation in the flood insurance market? And two, would you support legislation that eliminates the noncompete clause now required by FEMA?

Mr. HECHT. Let me answer the second one. It is easier. Yes, I would support the legislation. And the cause and effect, capacity is what the private market needs to take on a bigger share of the National Flood Insurance Program. And the Write-Your-Own companies, if they are precluded from participating in the private market, then you have taken that capacity out of the marketplace. There is no reason to take that capacity out of the marketplace.

I listened to Mr. Wright's testimony to the Senate yesterday where he described that his reasoning was that these Write-Your-Own companies had access to proprietary data and that they could choose just the best risks and leave him with the worst risks.

Again, the private market is going to write the risks that they want to write. It is not a matter—we don't necessarily agree with FEMA on what the right risks are, but that financial arrangement should be amended.

Mr. HULTGREN. Thank you.

Ms. Luckman, I wonder if I could address a couple of questions to you. 60 Minutes did a story on the Sandy claims review process in 2015, in which homeowners were interviewed about falsified engineering reports done on their homes after Superstorm Sandy. According to the story, engineers found flooding to be the cause of structural damages, only to learn later that their reports were changed by the insurance company, who, by the way, take on none of the loss risk as a Write-Your-Own company. According to 60 Minutes, insurance companies have argued the reason the engineering reports were changed was to allow for a peer review process, which is a standard practice in the insurance industry.

First question: Is it common for an engineering report to be changed without the knowledge of the engineer who prepared the report?

Ms. LUCKMAN. No, I don't believe that is common practice. And if it was truly peer review, the secondary person reviewing a report would have also been a licensed engineer.

What we saw, especially in the cases of HiRise Engineering, is that Mr. Pappalardo, against whom the AG had recently pressed criminal charges, wasn't even a licensed engineer. He was just purely making changes to reports, rubber stamping them, and sending them out the door to deny damage.

Mr. HULTGREN. What do you believe accounts for the inexplicable fraud in the claims process, especially adjusters and engineering reports? What accounts for that fraud, do you think?

Ms. LUCKMAN. First and foremost, I think the fear, that we have heard from many adjusters that we work with, that if they overpay a claim, that there is that fear of audit; that FEMA may come back and say, why did you overpay the claim, whether it be \$10, \$1,000, or \$100,000; and that there needs to be put safeguards in place that there needs to also be an audit for underpayment. And I think if there was audit for underpayment, we wouldn't have seen nearly half of the fraud that we saw in the review process.

Mr. HULTGREN. That maybe answers my last question, but I will ask it still: What do you think we can do to prevent something like this from happening again? Do you think that is the answer?

Ms. LUCKMAN. I definitely think there needs to be an audit requirement for underpayments. I think the messaging needs to be

clear that there will be an audit for under- and overpayments. Payments should be proper. If an adjuster is getting paid to adjust a claim, they need to adjust it properly. And if they are unable to do that, then they should not be allowed to participate in the National Flood Insurance Program.

Mr. HULTGREN. Mr. Hecht, if I can go back to you, one last question with my one last minute. In your testimony, you mention a FEMA-subsidized rate policy written in Illinois in 2006 for \$998 that renewed this year for \$2,525, an increase of 153 percent over 10 years. You go on to say that private market providers may choose to write FEMA-subsidized risk.

Is this policy in Illinois an example of where the private market could step in and provide better terms than the government? I could just see private providers take on a greater role in the market, but I am also a little surprised you can compete with government-subsidized policies.

Mr. HECHT. Correct. The rate increases that FEMA has taken on subsidized policies have opened the door for the private market. We are the largest writer of private flood insurance currently. We do have competition. There are several other private market providers. All of them, to the best of my knowledge, are concentrating on writing FEMA's subsidized risks. It is not my company that is not cherry picking that term. The entire private market is doing what we are doing.

Mr. HULTGREN. Again, thank you all. This is obviously an important topic. We will keep learning from you and hopefully having ongoing communication.

I yield back, Mr. Chairman. Thank you.

Chairman DUFFY. The gentleman yields back.

The Chair now recognizes the gentleman from Texas. I would just note that he is not on the subcommittee, that is why he goes last, but we welcome him here for his questions. Mr. Green is recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. And thank you for allowing me to be an interloper today. I thank the ranking member as well. They are both friends, and I enjoy working with them.

Mr. Hecht, you insure properties in some 36 or 37 States; I am not sure which. I have seen the two numbers, 36 and 37. Do you insure any properties now or have you ever insured any properties in Houston, Texas?

Mr. HECHT. Yes.

Mr. GREEN. If you have insured properties in Houston, Texas, you are familiar with the Memorial Day flood that caused over \$100 million in damages, approximately, and you are familiar with the Tax Day flood that caused about \$1.9 billion, depending on who is counting and how you count, in damages. Now, you probably also are aware of the fact that Congress has appropriated funds to mitigate and eliminate some of these damages. The Army Corps of Engineers has on its docket—there are projects that when completed would mitigate and eliminate a lot of these damages.

The question I have for you is this: Given that we have these \$100 million floods—there is some debate as to whether they are 100-year floods, but very little debate about the cost—and people are victims more than once in certain areas, and it is prognos-

ticated that if we completed the projects that have been authorized by Congress, money not appropriated, we would eliminate and mitigate a lot of this flooding.

Your policyholders who are suffering because the projects that we have authorized have not had appropriate appropriations, they have to suffer flooding more than once. Do you tell them that they should elevate, knowing that if the flood control district had the money to properly mitigate they might not have to elevate? Are you following me, Mr. Hecht?

Mr. HECHT. Yes, I am following you.

Mr. GREEN. How do your property—your persons that you have insured, how do they respond to this circumstance, which is not entirely unique? There are other places in the country where similar circumstances exist. How do they respond to this?

Mr. HECHT. Actually, there are other places in the country where similar circumstances exist. We paid \$30 million for flood claims in Baton Rouge just a few months ago. That is a project that had already been approved. That project was approved 10 years ago and never came to fruition.

Had the mitigation project, the floodplain management project in Baton Rouge been accomplished, we wouldn't have paid \$30 million. People wouldn't have had to have elevated their houses, they wouldn't have had to move out of their houses, they wouldn't have had to rebuild their whole lives. So I am a big fan of mitigation projects.

Mr. GREEN. And obviously, the people that you insure, they mitigate because they raise the level of their properties. That is a form of mitigation, isn't it, when they elevate their properties?

Mr. HECHT. Yes.

Mr. GREEN. They are doing this, in some cases, because we are not appropriating the moneys that we have authorized. And in Houston, for example, we need about \$311 million. That \$311 million hasn't been spent, but after the fact, post-disaster, we end up spending hundreds of millions of dollars.

There has to be a point wherein we do this thing called cost-benefit analysis, that we are so fond of talking about here, and at some point we have to fund these projects and spend less on what we will call the front end of the process as opposed to more on what we will call the back end of the process. Are you in agreement with me, Mr. Hecht?

Mr. HECHT. I am.

Mr. GREEN. Okay. Does anybody differ with me on the panel? Everybody agrees.

I am going to move to do something quickly. I have some documents that I would like to introduce into the record, without objection, hopefully, Mr. Chairman: A resolution from the Harris County Commissioners Court signed by all commissioners supporting reauthorization; a statement from the Communications Workers of America indicating that they would support the completion of these flood control projects; a letter from the City of Houston signed by Mayor Turner indicating that some 2,700 homes were damaged in the April 18th floods; a letter from the Flood Control District indicating that they could use the \$311 million to help mitigate and eliminate; a letter from the Houston Partnership indicating that

about \$1.9 billion in damages were done with one of the floods, the Tax Day flood; and a letter from the Houston REALTORS® Association indicating that the 2016 Tax Day flood caused 1,362 homes to be damaged that were within the 100-year floodplain.

Mr. Chairman, I ask that these be added to the record.

Chairman DUFFY. Without objection, the documents will be included in the record.

Mr. GREEN. Mr. Chairman, if I may say so, just in closing, I was disappointed to hear that the President was going to cut \$190 million from the discretionary appropriations in NFIP, but I was also even more disappointed to learn that he is appropriating \$4.5 billion for Executive Orders, one of which is to deal with a wall that Mexico is supposed to pay for.

I yield back the balance of my time.

Chairman DUFFY. The gentleman yields back and is well over a minute beyond his 5 minutes.

The Chair now recognizes the ranking member, Mr. Cleaver.

Mr. CLEAVER. Mr. Chairman, I have a communication from the National Association of Federal Credit Unions addressed to both you and me that I would like to have introduced into the record.

Chairman DUFFY. Without objection, the document will be included in the record.

Chairman DUFFY. The gentleman yields back.

I want to thank our panel for their testimony today.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

Again, I want to thank you for your time today and your testimony, for helping this panel get up to speed on your experience so we can develop the best product possible in a timely manner.

With that, and without objection, this hearing is now adjourned. [Whereupon, at 4:15 p.m., the hearing was adjourned.]

A P P E N D I X

March 16, 2017



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TESTIMONY

Flood Insurance Reform: A Community Perspective

Before the

House Financial Services Committee
Subcommittee on Housing and Insurance

By

Chad Berginnis, CFM
Executive Director
Association of State Floodplain Managers

March 16, 2017

Introduction

The Association of State Floodplain Managers is pleased to participate in this hearing about the National Flood Insurance Program and the community perspective. We appreciate the opportunity to discuss our views and recommendations for the future of the program. We thank you, Chairman Duffy, Ranking Member Cleaver and members of the subcommittee for your interest in this important subject.

The ASFPM and its 36 chapters represent more than 17,000 local and state officials as well as other professionals engaged in all aspects of floodplain management and flood hazard mitigation including management of local floodplain ordinances, flood risk mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources development and flood insurance. All ASFPM members are concerned with reducing our nation's flood-related losses. For more information on the association, its 14 policy committees and 36 state chapters, our website is: www.floods.org.

Floods are this nation's most frequent and costly natural disasters and the trends are worsening. The NFIP is the nation's most widely used tool to reduce flood risk through an innovative and unique mix of incentives, requirements, codes, hazard mitigation, mapping and insurance. At the same time, we understand the four main pillars of the NFIP are interconnected; and making significant changes to one pillar without thoughtful consideration of the other three can erode the program overall. While we are under no illusion that the NFIP is the only tool in the toolbox, it is one that serves policyholders, taxpayers and the public well. ASFPM's testimony is intended to provide a better description of these interdependencies as well as twenty recommendations for Congress to consider to reform the NFIP.

The NFIP is a National Comprehensive Flood Risk Reduction Program

The NFIP was created by statute in 1968 to accomplish several objectives. Among other things, the NFIP was created to:

- Provide for the expeditious identification of and dissemination of information concerning flood-prone areas
- Require states and communities, as a condition of future federal financial assistance, to participate in the NFIP and to adopt adequate floodplain ordinances consistent with federal flood loss reduction standards
- Require the purchase of flood insurance by property owners who are being assisted by federal programs or by federally supervised, regulated or insured agencies in special flood hazard areas
- Encourage state and local governments to make appropriate land use adjustments to constrict the development of land exposed to flood damage so homes and businesses are safer and to minimize damage caused by flood losses
- Guide the development of proposed future construction, where practicable, away from locations threatened by flood hazards

- Authorize nationwide flood insurance program through the cooperative efforts of the federal government and private insurance industry
- Provide flexibility in the program so flood insurance may be based on workable methods of distributing burdens equitably among those protected by flood insurance and the general public who benefit from lower disaster costs

Beyond merely providing flood insurance, the NFIP is unique as it integrates multiple approaches to identify flood risk, communication and reduce flood losses. It is a unique collaborative partnership enlisting participation at the state and local level. It is a multi-faceted, multiple objective program – a four legged stool as it is often called. The four legs of the stool are (1) floodplain mapping, (2) flood standards, (3) flood hazard mitigation and (4) flood insurance. Altering one leg without careful consideration of impacts on the other three legs can have serious repercussions on reducing flood losses. NFIP on the whole provides substantial public benefits as our testimony will further detail.

A Pivotal Time for the NFIP – Current Status

At the end of 2016 the NFIP, which is 50 years old, had paid \$56.4 billion in claims. But beyond paying insurance claims, the NFIP has also mapped 1.2 million miles of streams, rivers and coastlines. It has invested more than \$1.3 billion in flood hazard mitigation for older, at-risk structures. Because of the program, over 22,000 communities adopted local flood risk reduction standards, which resulted in nearly \$2 billion of flood losses reduced annually. The NFIP has provided innumerable public benefits as well as direct monetary ones to taxpayers.

At the same time, based on historical flooding and dealing with ongoing development, future conditions are and will continue to change, perhaps quite significantly. While floodplain managers know upstream development often results in increased flood heights, we also observe changing weather patterns that result in shifting snowmelt/rainfall in the West. Nationally, more intense short duration storms are causing more flash floods, and unrelenting sea level rise (SLR) is beginning to affect communities from Florida to Virginia to Alaska. A recent [*NOAA report*](#) added a new upper boundary for SLR this century up to 2.5m (8 feet) by 2100 due to new data on the melting of the Greenland and Antarctic ice sheets. This new data is getting the attention of our state and community members. For example, a [*recent article*](#) shows Rhode Island state officials discussing how to deal with these new scenarios. Luckily the NFIP, as it exists today, can help states and communities address these problems with its innovative mix of incentives, requirements, data and tools.

Still, improvements can be made. NFIP reform legislation in 1994 and 2004, in addition to other measures, outlined reforms focused reducing on repetitive loss properties. Today those remain problematic. Reform legislation in 2012 focused on flood mapping. Today the National Flood Mapping Program provides important authorities for FEMA and cooperating technical partners to map all flood hazard areas across the country. Reform legislation in 2004, 2012 and 2014 addressed deficiencies in the insurance element of the NFIP. There is still more work to be done. It is important to note that the 2012 and 2014 reform legislation resulted in 80 new sections of law that are not yet fully implemented.

ASFPM hopes Congress will be thoughtful about reforms that might be considered in 2017 as we do not yet fully know the program outcomes that will result from the previous two reform bills.

So what will the NFIP of tomorrow look like? ASFPM believes the nation will continue to need a robust, fiscally-strong NFIP to comprehensively reduce flood risk. We also believe a strong NFIP can co-exist with a developing private market. But at the end of the day we must acknowledge that at least today's NFIP is far more than an insurance program. It is the nation's primary tool to identify and map flood hazard areas used by a multitude of agencies. The program is also a tool to assess flood risk, used to work with communities and states to implement strong land use and building standards to prevent future disaster losses, and works with property owners and communities to undertake mitigation to reduce damage to older at-risk buildings, in addition to providing flood insurance.

A Long-term Sound Financial Framework is Needed

The NFIP had generally been self-supporting until 2005. In the 1980s the program went into debt a few times and ultimately Congress forgave approximately \$2 billion. But from the mid-1980s to 2005, the NFIP was largely self-sustaining and when borrowing from the U.S. Treasury, the debt was repaid with interest. However, due to catastrophic floods in 2004, 2005 and 2012, and now due to a high claims year in 2016, the program does currently owe \$24.6 billion to the treasury. Unfortunately, we heard last week in testimony to the subcommittee from FEMA, that this past January, the program had to even borrow to pay the interest on the debt (and today's debt is financed at historically low rates). This was done only one other time back in 2008 after hurricane Ike. When interest rates eventually cycle back to more historic levels, the interest on the debt payments will destabilize the program.

The NFIP was never designed to pay for catastrophic events. In fact, from 1968 to 1978 the concept was one of risk sharing with the private sector with the program actually paying a subsidy to private insurers for pre-FIRM structures. As recently as the late 1980s, internal communications show that the administration reaffirmed the federal treasury was essentially the reinsurer of last resort¹. It seems this history has been forgotten.

Important progress toward putting the program on a more sound financial footing was made as part of the past two NFIP reforms in 2012 and 2014, which ASFPM supported. Under BW-12, reforms (later modified by HFIAA-14) were made to the rate structure to move subsidized policies to actuarial premium rates, to allow the NFIP to purchase reinsurance and to establish a reserve fund. All of these help reduce the financial risk to the program and ultimately to the American taxpayer.

But what has been very frustrating to ASFPM is Congress' unwillingness to address the program debt. After reviewing FEMA's interest and principle payments after 2005 and based on FEMA's analysis of cash flow, if Congress had promptly dealt with the debt amassed from the 2004-2005 hurricane seasons, then the NFIP wouldn't have had to borrow from the treasury to pay Hurricane Sandy claims. Those pointing to today's debt in the NFIP as evidence that the NFIP is irreparably broken do not understand that if the

¹ *Dr. Len Shabman with Resources for the Future has been researching this topic in-depth and will be soon developing a paper detailing the history and specifically the financial arrangement of the NFIP from 1968-1978 as well as the strengths and weaknesses of the public-private loss sharing model that actually still exists today.*

2004-2005 debt had been resolved in a timely manner by Congress (as had been done in the 1980s and consistent with the program's design), the NFIP would be functioning well with little or no debt today.

- **ASFPM recommends Congress forgive the current NFIP debt.**
- **This should be part of a broader commitment to develop a backstop for the program based on an evaluation of its current financial capacity given the financial risk management tools Congress has asked FEMA to implement**

Floodplain Mapping

Floodplain mapping is the foundation of all flood risk reduction efforts, including design and location of transportation and other infrastructure essential to support businesses and the nation's economy. Today FEMA has in place right policies and procedures (i.e., requiring high-resolution topography (LiDAR) for all flood map updates), and is using the best available technology to produce very good flood studies. For example, FEMA is doing some pilot studies in Minnesota and South Dakota using very precise topographic mapping and automated flood study methods to develop base level engineering that can be used as an input into future flood studies. This gives communities data immediately to use for planning and development rather than waiting years for the data. In coastal studies, FEMA now uses the state-of-the-art ADvanced CIRculation (ADCIRC) model for storm surge analysis. Unfortunately, due to the length of time it takes from initiation of a flood study to final production, some maps coming out today may have been started a decade ago and are not being produced to today's specifications. It is important to distinguish between these legacy mapping projects and those meeting today's guidance and specifications. ASFPM is also pleased that FEMA has prioritized eliminating remaining pure "paper" maps that have never been modernized with newer flood study procedures.

Recently there has been confusion around whether or not sophisticated risk assessment modeling developed by the private sector can be a suitable replacement for FEMA flood maps and data. However, this is comparing apples to oranges. First, FEMA flood maps and data are already produced by the private sector (under contract to FEMA). Second, the private sector risk assessment methods largely developed to assist the insurance industry are not publically available. Those models do not produce a "map" the community can use for multiple purposes and cannot inform the other needs of the program including hazard mitigation and floodplain management. Such methods can complement FEMA maps for the purposes of rating flood insurance, but do not replace FEMA maps. Further, those developing such models have indicated they depend on FEMA maps to calibrate their models.

Today, flood risk maps only exist for about 1/3 of the nation – only 1.2 million of 3.5 million miles of streams, rivers and coastlines have been mapped. Even today some of the maps are many decades old, or were updated before the current standards to redraw boundaries based on more accurate study data and topography. Many areas have never been mapped, so there is no identification of areas at risk and communities have no maps or data to guide development to be safe from flooding. This is a significant problem and below illustrates why.

Cameron Chase is an 87-acre residential subdivision developed in the early 2000s in Licking County, Ohio. As a crow flies, it is 17 miles from downtown Columbus, Ohio (metro area population 2+ million). An unnamed stream flows through the subdivision:



(Above: Aerial view of Cameron Chase division, Etna Township, Licking County Ohio. The unnamed stream is highlighted as the dashed blue line)

On the FEMA maps that were effective at the time and even on today's maps, the unnamed stream is not mapped. Why? The old guideline for mapping these small streams was that you needed about 10 square miles of land draining into the stream for it to reach a threshold for FEMA mapping in rural areas. In the case of this tributary, it only had about 760 acres or just over one square mile of drainage. Also, the land previously had been a cornfield and as a result never had enough property at risk for FEMA to map prior to development:



(Above: Portion of FEMA FIRM Index Panel for Licking County, Ohio. The Cameron Chase subdivision is circled; note that the unnamed stream does not have a FEMA mapped floodplain – it does not show up until several miles downstream)

Luckily, Licking County has strong local floodplain management regulations that exceed federal minimum standards and the regulations required the developer to map the floodplain on any stream where one wasn't identified. So prior to development a flood study (similar to one that FEMA would prepare) was completed and the result? A 1% chance floodplain that ranged from 150 feet wide to 300 feet wide and more importantly a map to guide the proposed development. But most communities do not have such standards and what happens then? The development occurs with no flood standards. Well, this is what is happening in thousands of subdivisions across the country: areas are developing into tens of thousands of housing units that use to be cornfields and cow pastures. Later, after there is significant development at risk and often after a flood or two, FEMA comes in and maps it. Then the dynamic changes and everything becomes adversarial. People think FEMA put a floodplain on them when it was there all along. The property owner is mad because they have to buy flood insurance at high premiums because flood elevations were unknown. Realtors are upset because it is a surprise and may have an impact on the future salability of homes. And local elected officials fight to minimize the size of the mapped floodplain, spending thousands of dollars on competing flood studies.

The point is it doesn't have to be like this, but we have to start changing our mapping priorities. The entire dynamic can change if maps showing risk are available before development starts. You can see from the FEMA flood map above that there is a lot of vacant farm fields that will be developed in the next few decades (and there are small streams running through them too). We must map today's corn fields and cow pastures to get mapping ahead of development.

The National Flood Mapping Program (NFMP) authorized by Congress in 2012 Reform Act was one of the most important elements of the legislation and is the right approach. While FEMA has not made much progress on mapping residual risk areas, failure inundation areas or areas of future development, FEMA is making progress, paying attention to recommendations made by the Technical Mapping Advisory Council. Now we need to complete the job of mapping the nation and get to a steady maintenance state. Authorized by the 2012 Reform Act at \$400 million annually, the NFMP is still desperately needed to map the approximately 2.3 million miles of unidentified flood hazard areas, and maintain the existing inventory of 1.2 million miles of flood studies. ASFPM appreciates last year's letter initiated by Ranking Member Maxine Waters and signed by 43 House members, not only recognizing the benefits of flood mapping, but urging Congress to get the job done by funding FEMA's mapping program at a level of \$1.5 billion/year for five years. A stepped up commitment to mapping flood risk is essentially critical as the administration and Congress plan a major investment in building and repairing infrastructure.

Another key issue is mapping areas below dams and behind levees to show the residual risk areas that will be flooded when the dam or levee overtops, fails or a spillway is used. This was an issue with the recent flooding below Oroville Dam in California. While local emergency management officials had access to these maps, two hundred thousand evacuated property owners did not. People need to know they are living or buying in a residual risk area so they can take preparedness and mitigation measures such as buying a low cost flood insurance policy. In just the last two years, South Carolina alone has had 80 dam failures due to back to back flooding events. Unfortunately, DHS policy has continued unchanged since 9/11 which is that inundation maps for federal dams and levees are classified as For Official Use Only and not publically available. This means citizens living there do not know they are at risk until law enforcement knocks on their door in the middle of the night and orders them to evacuate.

In recent years, a Federal Policy Fee associated with NFIP policies (\$50 for high-risk policies; \$25 for lower-risk policies) has paid between 30-60% of the flood mapping program and appropriations paid for the remainder. The highest level of appropriations in the past five years has fallen far short of the \$400 million per year authorized in BW-12. So funding from the Federal Policy Fee is an important part of the funding for map updates and corrections. Fewer NFIP policies means less funding for updated maps.

- **ASFPM recommends the reauthorization of the National Flood Mapping Program (NFMP).**
- **ASFPM supports an increased authorization for the National Flood Mapping Program to accelerate the completion of the job of initially mapping the nation in five years and getting to a steady state maintenance phase**
- **ASFPM recommends that Congress require federal dam and levee inundation maps be publically available and cease their classification as For Official Use Only**

Floodplain Regulations, Standards and Codes

More than 22,200 communities participate in the NFIP, which basically means they have adopted minimum development and construction standards to reduce flood losses. As floodplain areas are identified and mapped throughout the nation, NFIP participating communities must adopt and enforce local floodplain management standards that apply to all development in such areas.

States are required to apply similar standards for state funded, financed and undertaken developments. In fact, NFIP standards are the most widely adopted development/construction standards in the nation as compared to building codes, subdivision standards or zoning. FEMA has estimated that for approximately 6,000 of the NFIP participating communities, the only local codes they have adopted are their floodplain management standards. Today it is estimated \$2 billion of flood losses are avoided annually because of the adoption and implementation of minimum floodplain management standards. Often communities decide to adopt standards that exceed the federal minimums. For example, over 60% of the population in the United States lives in a community that has adopted a freeboard – which is an elevation that is higher than the base flood (or 100-year flood). A freeboard not only has the benefit of making the construction safer, but it can have a tremendous impact on flood insurance rates. A freeboard of 3 feet can reduce premiums by more than 70%.

Why do communities participate in the NFIP and adopt local standards? State floodplain managers around the nation who have enrolled nearly all of the communities in the past 40 years know a major reason is to make flood insurance available to their citizens. If a community hasn't joined (there are still about 2,000 communities not in the NFIP), it is usually compelled to do so when a resident gets a federally-backed mortgage and needs to have flood insurance. While there are some non-participation disincentives in terms of restrictions on some forms of disaster assistance, such disincentives are weak and very limited. For most communities, they are not much of a disincentive at all, but getting flood insurance is.

The entire floodplain management budget (100%), which includes staffing, community and state technical assistance, and the Community Assistance Program (CAP-SSSE), comes out of the Federal Policy Fee.

- **ASFPM recommends almost all forms of disaster assistance (especially public assistance) be tied to a community's participation on the NFIP**

Flood Hazard Mitigation

NFIP has two built in flood mitigation programs: Increased Cost of Compliance (ICC) and Flood Mitigation Assistance (FMA). These NFIP funded mitigation programs have resulted in more than \$1.3 billion in funds to reduce risk to thousands of at-risk, existing structures. The Multi-Hazard Mitigation Council in its research of FEMA flood hazard mitigation projects determined that such projects resulted in \$5 in

benefits for each \$1 spent. ICC and FMA have mitigated, on average, 1,850 buildings annually between 2010 and 2014. ASFPM strongly supports both programs.

ICC is the fastest way to get flood mitigation done and is paid for 100% through a separate policy surcharge. Since it isn't run like a typical grant, funds are available much quicker. It is a transaction between the insured and insurance company. 60% of ICC claims are used to elevate a building and 31% of the time it's used to demolish a building. Other techniques used are floodproofing or relocation of the building out of the floodplain altogether. From 1997 to 2014, ICC has been used to mitigate over 30,000 properties.

ASFPM has been frustrated for several years over the pace of FEMA's implementation of its own authority to make ICC much more useful. In 2004 ASFPM worked with Congress to add triggers to ICC, so now there are four of them:

- A building being substantially damaged,
- A building classified as a repetitive loss,
- A building where an offer of mitigation is being made,
- And the administrator's discretion to offer ICC when it is in the best interest of the flood insurance fund.

Of these four, only one trigger is being utilized – when a structure has been determined to be substantially damaged. While FEMA will claim it also applies ICC to repetitive loss properties it, is only that subset of them that have also been substantially damaged. The point is that there are three triggers – in existing law – that could be used in a pre-disaster sense. It was clear in the hearing last week that there is interest by this subcommittee in effectively using ICC pre-disaster. ASFPM would note that this past fall, FEMA has finally convened an internal working group to look at ICC and evaluate how to make it more effective. ASFPM urges the committee to monitor the progress of this group to ensure that the congressional intent has been carried out.

Another frustration with how ICC is currently being implemented is the determination of how the surcharge is set by FEMA's actuaries. Currently funding for ICC is through a congressionally-mandated surcharge capped at \$75 per policy. The latest date ASFPM has is for calendar year 2014 where ICC brought in approximately \$74 million for mitigation. On average this equals about \$15 per NFIP policy – which is far below the statutory cap. However, as ASFPM has been discussing changes to ICC including increasing the ICC claim limit beyond \$30,000, a response we often get is that the FEMA would have a tough time making the changes because it is collecting as much as it can under the existing cap and that the surcharge rate is set using actuarial principles.

However, in its 2010 rate review, FEMA discussed how it was collecting more in ICC than it was spending and therefore adjusted the amount it would collect per policy down in 2011. The result? In 2010 the surcharge collected \$84.5 million and in 2011 the surcharge collected \$78.2 million. The point of this is that the rate setting becomes a self-fulfilling prophesy – FEMA's inability to implement ICC's other triggers result in the program not being fully used. And its low utilization in turn led to FEMA determining that the rates should be lowered. So it gives the appearance there is room under the

existing cap. ASFPM believes there is room under the existing cap. However, FEMA implied last week in its testimony that the cap may need to be raised. While ASFPM can be supportive of raising the cap, we also suggest Congress look at setting a tiered amount that would be consistent with the existing cap limit and reflective of risk. ASFPM calculates that under such an approach an ICC surcharge set at \$25 for BCX-Zone properties, \$50 for actuarially-rated A- and V-Zone properties and \$75 for subsidized A- and V-Zone properties, would generate approximately \$227 million in revenue that could be used by policyholders to mitigate their flood risk.

ASFPM believes ICC needs two other adjustments by Congress to be more effective. First, while ICC is collected on every policy, FEMA believes the statute requires the ICC claim be counted toward the total claim limit. This means a home that gets a \$250,000 damage claim, the amount available for ICC is \$0. Second, the ICC claim limit is too low. Estimates to elevate a home range from \$30,000 to \$150,000 with an average closer to \$60,000. While \$30,000 is very helpful, it often does not come close enough to cover enough of the mitigation cost.

- **ASFPM recommends the ICC claim limit be in addition to the maximum claim limit under a standard flood insurance policy**
- **ASFPM recommends the ICC claim limit be raised to \$60,000**
- **ASFPM recommends Congress specifically allow FEMA to utilize the available ICC amount for both demolition and acquisition costs as a means of compliance, when the claim is assigned to the community and deed restricted as open space**
- **ASFPM recommends FEMA clarify to Congress whether or not expanding ICC to utilize pre-disaster triggers, raising the claim limit and allowing demolition and acquisition costs would necessitate increasing the cap and based on that information either raise the cap or set a tiered surcharge within the existing cap**
- **ASFPM recommends Congress waive any rulemaking requirements that may be an impediment to quickly implementing the pre-disaster triggers for ICC and allowing demolition and acquisition costs**

FMA operates like a typical grant program where a community applies through the state through a grant application. Further, FMA also funds other types of mitigation that can address issues on the neighborhood- or community-scale such as stormwater management systems to reduce flood risk and flood mitigation plans. In recent years, the priority for the FMA program has been repetitive loss and severe repetitive loss properties. While this is an important objective, ASFPM worries that an exclusive focus on such projects is increasingly resulting in a gap where no assistance is available for properties that desperately need assistance, such as older pre-FIRM non-repetitive loss structures for which insurance rates may be increasing significantly. ASFPM recommends that accommodations be made for these types of properties as well when FEMA formulates its new policy guidance.

As our testimony will go into more detail below, one approach to flood insurance affordability is to subsidize flood hazard mitigation or at least give property owners a chance to mitigate. One idea for Congress to consider is a mitigation surge where Congress would supplement FMA funds with a large

one-time or multi-year appropriation to either address the growing number of repetitive loss properties, or specifically address pre-FIRM properties where affordability of flood insurance has become untenable.

Repetitive loss claims continue to drain the National Flood Insurance Fund and today, there are at least 160,000 repetitive loss properties. Hazard mitigation efforts have been insufficient to reduce flood damage to older structures and ultimately reduce the overall number repetitive loss properties. Current mitigation programs within the NFIP are underfunded and not reducing the overall number of repetitive losses in the country.

Flood Insurance

Flood insurance is the easiest way for a property owner to manage their flood risk. It was also viewed by the original authors of the program as a way to more equitably share risks and costs of development decisions. Yet too few property owners and renters carry flood insurance. Today it is estimated 10% of the population lives in an identified floodplain and that number is projected to grow to 15% by the year 2100 based on natural population growth and future conditions (land use, development and climate change). It is also estimated the number of policies increasing by 100% and the average loss per policy increasing by 90% in 2100.² The point is that these trends show growth in the human occupation of flood hazard areas and the potential damage that may result. As we have pointed out earlier, there are many more miles of rivers, streams and coastlines that aren't even yet mapped (which is why it is unsurprising that 20% of NFIP claims and 1/3 of federal disaster assistance come from outside of mapped floodplains)³.

The Push for Expansion of a Private Flood Insurance Market

In 2012 and today, there appears to be much interest in expanding the private flood insurance market. Many believe the private sector is a cure-all and can get the taxpayer off the hook for flood losses. And there seems to be a belief that if not for Congressional intervention in 2017, a robust private market would develop. ASFPM can see where the private sector can be a partner to the NFIP in growing the policy base nationally. We have the following observations related to expanding the private flood insurance market.

First, private flood insurance has always been part and will continue to be allowed under the NFIP. Currently, robust private markets exist for policies in excess of NFIP limits. The private market has almost all of the commercial and industrial flood risk in the country. And robust private markets exist for forced place properties. Too often in 2012 and again this year, conversations in Congress about private flood insurance imply private companies are not currently writing policies. Not true!

² *The Impact of Climate Change and Population Growth on the National Flood Insurance Program through 2100.* 2013.

³ *FloodSmart Flood Facts.* Webpage accessed 3/14/17.

Second, the reforms to stimulate more private market participation in 2012 have worked as intended. ASFPM disagrees with those who believe that somehow the 2012 reforms were badly written or somehow missed its intent. ASFPM has spoken with numerous industry sources, as well as had extensive conversations with private sector companies interested in offering private flood insurance and former state insurance commissioners. This industry is growing and in the past year or so has grown significantly. For example, private flood policies today are required to contain a flood mitigation coverage that is similar to ICC because the 2012 reforms required that private policies have coverage “at least as broad as” NFIP policies. This ensures that property owners have funds to elevate flood prone homes and that communities are not faced with owners who just walk away from the property because it is too expensive to elevate. The 2012 reforms are ensuring that the private market is growing in an orderly way with appropriate safeguards that ensure protections for policyholders, lenders, taxpayers and communities.

- **As a result of the successful 2012 reforms to stimulate the private flood insurance market, ASFPM does not believe any further stimulation of the private market is needed at this time⁴**
- **If Congress does consider additional changes to stimulate the private market, ASFPM urges that that the provision in current law related to coverages and deductibles being “at least as broad as” NFIP policies be retained to preserve an ICC type coverage to mitigate at-risk buildings**

Third, ASFPM strongly believes a strong NFIP can co-exist with the private market offering flood insurance as long as both are on equal playing fields. In other words, neither the NFIP nor the private market should be at a competitive disadvantage. As explained earlier in this testimony, private insurers depend on NFIP maps and agrees local floodplain regulations help all insurance, yet private policies do not have to include the Federal Policy Fee to help pay a share of these costs. The wholly unfair PAYGO surcharge has allowed private policies to be written using FEMA rate tables and the private sector is profiting on the difference between the loaded NFIP policy (with surcharges and fees) and private sector policy that does not have to charge such fees.

Fourth, ASFPM believes that to preserve the many public benefits of the NFIP, two changes must be made to the existing law to ensure private sector growth does not inadvertently erode the other elements of the NFIP.

The private insurance industry uses FEMA flood maps in various ways: sometimes to calibrate their risk assessment models, and sometimes to determine basic eligibility of their private flood insurance product. Industry officials ASFPM talks with all support the floodplain management efforts in a community that provide a meaningful program of risk reduction. Given that 100% of the Federal Policy

⁴ Last year ASFPM testified before the Senate Committee on Small Business & Entrepreneurship on flood insurance rate increases which also included detailed thoughts on HR 2901, which can be found [here](#) or on ASFPM's website at www.floods.org

Fee goes to mapping and floodplain management, it is only equitable that private policies help pay for these functions and that they are not just borne by policyholders.

- **ASFPM recommends an *equivalency fee*, equal to the Federal Policy Fee, be assessed on all private flood insurance policies sold to meet the mandatory purchase requirement**

As private flood insurance becomes more widely and easily available, provisions must be made to ensure such policies can only be made available to meet the mandatory purchase requirement if the community participates in the NFIP. Why? For thousands of communities in the NFIP, the primary reason for joining the program is the availability of flood insurance to meet the mandatory purchase requirement. As a requirement of joining, communities agree to adopt and enforce local floodplain management standards. As a result, floodplain management standards are the most widely adopted in the United States – exceeding the coverage of building codes, subdivision regulations and zoning. The adoption and enforcement of these codes, in turn, reduces future flood risk to the individual, businesses, communities and taxpayers. ASFPM members understand that once you remove the incentive for joining (flood insurance availability) thousands of communities may rescind their codes, drop out of the NFIP, and rely on the private policies to meet needs of property owners without the administrative burden of adopting and enforcing local codes. Particularly susceptible to this are small communities with low policy counts. As stated earlier in this testimony, most communities in the nation already participate in the NFIP. And while the private industry is still emerging, let's be partners in persuading communities to comprehensively reduce flood losses. Finally, this fee has no cost to the private insurance industry.

- **ASFPM recommends private flood insurance policies meet the mandatory purchase requirement and can only be sold in NFIP participating communities**

Flood Insurance Affordability

Despite the longer glide path for premium increases set in HFIAA, rates may again reach high levels in another three or four years and a long-term solution to affordability was not included in either BW-12 or HFIAA. Also, to meet House PAYGO rules, there was a large surcharge imposed on non-primary residences, small businesses and other non-residential structures. The surcharge is neither risk-based nor need-based. Premium increases and surcharges have led to a notable reduction in policies in force, declining from a high of 5.5 million to about 5.1 million today.

On one hand ASFPM supports pricing flood insurance premiums to accurately reflect risk. Premiums reflecting risk inform individuals as to the level of hazard in flood prone areas and encourage investment in flood mitigation measures. On the other hand, many low and middle income homeowners living in older homes in flood prone areas may not be able to afford flood insurance if premiums are priced to reflect risk. ASFPM believes that it is imperative that issues of affordability be addressed, but not by

subsidizing premiums. The University of Pennsylvania Wharton Risk Management and Decision Process Center has developed a conceptual approach that would pair a needs based voucher program with implementation of a low interest mitigation loan program. ASFPM supports approaches like this that emphasize mitigation as part of the solution.

ASFPM notes that congressionally-mandated studies on flood insurance affordability have been completed and now look forward to FEMA's completion of the affordability framework. However, we are also concerned about timing of the FEMA framework relative to the reauthorization deadline and whether any meaningful reforms will be developed and considered.

- **ASFPM recommends considering a shorter multi-year reauthorization of 2-3 years so FEMA can more fully develop affordability recommendations for Congress to consider.**
- **ASFPM recommends the elimination of the PAYGO surcharge established in 2014 from the standpoint of flood insurance affordability and equity with private flood policies**

Mandatory Purchase Compliance

ASFPM shares the subcommittee's concern about compliance with the mandatory purchase requirement of the NFIP and appreciates the focus on the issue during last week's hearing with FEMA. Back in 2014 our members became quite concerned when FEMA decided that because mandatory purchase was not the agency's responsibility, it rescinded the Mandatory Purchase of Flood Insurance Guidelines (ironically our members report the document is alive and well in circulation as a bootlegged resource and while dated, it is still very helpful).

What emerged from the hearing is that we really don't know precisely what the compliance rate is. Attempts to quantify this in 2005 as part of the evaluation of the NFIP concluded that while overall the market penetration rate of the NFIP nationwide was estimated to be around 50%, the mandatory purchase requirement compliance rate could not be precisely determined. That same study did come to the conclusion that mandatory purchase compliance at the time of loan origination did not seem to be an issue.⁵ While the number hasn't been precisely determined, another study as part of the evaluation of the NFIP contained a very good policy discussion of the mandatory purchase issue and contained 72 recommendations, including one that ASFPM strongly concurs with: "FEMA should explore opportunities to exercise a leadership role in promoting compliance and in assisting federal entities for lending regulation to meet their obligations related to flood insurance."⁶

Aside from the compliance rate, it may be useful to divide mandatory purchase compliance into three areas: mandatory purchase associated with loans from federally-regulated lenders, mandatory purchase associated with loans by federal agencies that do direct lending (i.e., Dept. of Agriculture, Veterans Administration, SBA) and mandatory purchase associated with the receipt of some forms of disaster

⁵ *The authors did try to make an estimate of 75-80%; however, stakeholders largely thought this number was high. Data source: NFIP's Market Penetration Rate: Estimates and Policy Implications. RAND Corporation. 2006.*

⁶ *NFIP's Mandatory Purchase Requirement: Policies, Processes and Stakeholders. Tobin and Calfee. 2005.*

assistance. It is important to note that while FEMA has the authority to administer the NFIP, other federal agencies typically have the authority to administer the NFIP's mandatory purchase requirement. Although ASFPM would note that compliance with mandatory purchase associated with disaster assistance falls on FEMA. This means there are likely very different processes and procedures in place.

While Congress continually raises questions about mandatory purchase, FEMA continually points out that it does not have explicit authority to enforce the requirement. ASFPM agrees with earlier Office of Inspector General recommendations that FEMA could have a useful role in the implementation of the mandatory purchase requirement including assisting other federal entities in addressing the compliance issue. FEMA's Office of Inspector General in 2000 provided several examples of how FEMA could promote compliance without assuming a regulatory or enforcement role. One example is re-instituting a process FEMA used in the 1980s and early 1990s that collected information about mortgages and location in the SFHA from applicants seeking flood-related disaster assistance. FEMA then matched the information with data on which property owners carried flood insurance to determine the level of compliance with the mandatory purchase requirement.

- **ASFPM recommends Congress clarify FEMA's role in mandatory purchase to provide leadership and give FEMA explicit authority to provide technical assistance to federal entities to meet their obligations to related to mandatory purchase compliance**
- **ASFPM recommends the subcommittee hold a hearing dedicated to compliance with the mandatory purchase requirement (including when flood insurance purchase is required as a condition of disaster assistance) to further explore this issue**

Improving the NFIP Policy Offerings

Community floodplain managers often hear complaints about the NFIP centered around what is covered and what is not; and the inability to get additional coverages like living expenses as part of a NFIP policy. ASFPM has been impressed with FEMA's customer experience initiative after Sandy with FEMA committing to improving the insurance product it sells. Yet FEMA is constrained by a cumbersome rulemaking process that can take years to complete.

- **ASFPM recommends Congress give FEMA the flexibility to offer additional flood insurance policy options and make changes to existing options without the need for extensive rulemaking**

In Conclusion

Floods are this nation's most frequent and costly natural disasters and the trends are worsening. The NFIP is the nation's most widely used tool to reduce flood risk through an innovative and unique mix of

incentives, requirements, codes, hazard mitigation, mapping and insurance. At the same time, we understand the four main pillars of the NFIP are interconnected; and making significant changes to one pillar without thoughtful consideration of the other three can erode the program overall. While we are under no illusion that the NFIP is the only tool in the toolbox, it is one that serves policyholders, taxpayers and the public well.

The Association of State Floodplain Managers appreciates this opportunity to share our observations and recommendations with the subcommittee. For any questions, please contact Chad Berginnis, ASFPM Executive Director at cberginnis@floods.org (608 828-3000) or Merrie Inderfurth, ASFPM Washington Liaison at merrie.inderfurth@gmail.com (703 732-6070).

Appendix A: Questions for Witnesses – ASFPM Responses
House Financial Services Committee, Subcommittee on Housing and Insurance Hearing
Flood Insurance Reform: A Community Perspective
March 16, 2017

The Subcommittee is interested in how the operation of the NFIP affects consumers, policyholders, local businesses, and other members of your community. In addition to these matters, to the extent practical based on your experience, please discuss the following in your testimony:

1. Whether the NFIP, as it is presently constituted, represents an ideal model for the effective protection of residential and commercial property owners from damages related to flooding; The NFIP is a comprehensive flood risk management program that involves a partnership between local, state and federal governments as well as property owners and the private sector. The basic concept is to reduce taxpayer costs for disasters through the arrangement to use the incentives of insurance for communities to guide future at risk construction, flood insurance premiums to require occupants of buildings in flood hazard areas to pay part of the cost of the flooding, and assistance to those communities with flood maps and technical assistance to manage the program.
2. Whether FEMA can accurately predict flood risks, price for such flood risks and create an efficient *administrative* mechanism to serve policyholders; With the use of up to date contour mapping with LiDAR and modern technologies the NFIP can accurately predict flood risk. We note that It is only computing the risk from yesterday's floods, and needs to expand that to future expected flooding for purposes of community planning and mitigation.
3. The extent and scope of the NIFP's interaction and relationship with local communities to propose and address mitigation initiatives, as well as improve the local land use and zoning codes to enhance local flood resilience; FEMA has about the same number of staff in the NFIP program to serve those 22,000 communities as it had decades ago to serve 6,000 communities. However, the most effective means of providing assistance to communities is to partner with State floodplain management offices to provide training, assistance and monitoring. States already have relationships with those communities and can best help the community integrate flood risk management with other related federal and state programs.
4. How the claims process could be improved to enhance the timeliness and accuracy of claim payments; This is not ASFPM's area of expertise. No comment.

5. Suggestions on how to improve FEMA's mapping process, including whether maps could be developed more quickly and at lower cost by increasing community input and using more sophisticated technologies; FEMA has greatly improved their ability to provide accurate maps. Today the main obstacle is funding. Even so, FEMA is always looking at cost efficiencies. For example, FEMA is piloting a method in Minnesota where the flood study work is being completed at a cost of around \$200 per mile versus \$10,000 per mile for detailed flood studies. Increasing community input will likely have the effect of lengthening the process (such as extending the appeals process to 180 days vs. 90 days) We note that Congressionally mandated periods for notice, appeal, etc. has actually lengthened the process over the past five years.
6. Whether the Committee should consider developing or enhancing Federal and local partnerships beyond what currently exists today; Building state capacity to provide flood mapping through the Cooperating Technical Partners program as well as training and technical assistance is the most effective means of helping communities. Community authority to manage land use and building codes flows from state authority delegated to the community.
7. The role of the Federal Policy Fee and to what extent it has shaped FEMA's ability to provide timely and correct maps for local communities; For many years in the 1990s the Federal Policy Fee was almost the entire budget for flood mapping so it was of critical importance. Still, the Policy fee was and is not adequate to provide flood maps and to update them on a needed basis. Furthermore, the flood maps are used by a myriad of agencies (local, state and federal) as well as the private sector for development planning, road and bridge construction, dam and levee safety, emergency actions such as evacuation planning, rescue and relief and planning for placement and operation of critical facilities like hospitals, emergency shelters, water supply, etc. That is why in 2000, the Bush Administration and Congress provided supplemental funding from the general fund to increase the timeliness and accuracy of the flood maps.
8. Whether the patterns and practices of FEMA affect the community's ability to respond and recover from local disasters related to flood peril; Indeed—one of the biggest problems a community faces is when development is proposed in a flood hazard area that is not yet mapped. Because the community has no map, the development will occur with no guidance; then after the development is in, FEMA will now come along a map the area because their priority is to map developed areas. Unfortunately, many of those homes or businesses may now be shown in the floodplain, with flood insurance required, and many will have been built below the BFE on the maps. This makes their flood insurance premium very high, and the cost to mitigate an existing building is very high. IF the map had existed before development, the building could be built new when the cost of mitigation would be very low, usually 1 ½ or 2 % of building cost.

9. The reforms, based on your experience in the community, that could improve the program's efficiency and reduce fraud, abuse and waste; While ASFPM is not commenting on the claims process, we would note the recommendations of the flood insurance advocate that reflects comments we receive: the largest complaint is from agents who often quote the wrong premium for various reasons. Agent training seems to be a key need to improve efficiency.
10. How the NFIP and the private sector could better serve high-impacted communities and modernize mapping systems while incorporating local community mitigation efforts; and, Key to helping communities and property owners mitigate is to provide mitigation assistance very soon after a flood or even before the flood. The quickest and most effective post flood mitigation is the Increased Cost of Compliance (ICC) that is a part of the flood insurance policy. This provides amount up to \$30,000 to help property owners mitigate the property to comply with modern codes and standards. So in addition to the policy claim for damages, they have some added funding to actually make their home safer and to reduce their flood insurance premium. While this is exactly the right concept to assist the community and property owner, the ICC amount needs to be increased to \$60,000. Many communities would mitigate entire neighborhoods before the flood if mitigation funding through program like Flood Mitigation Assistance (FMA) was increased.
11. How the Committee should consider the question of affordability for low-income families living in high-impacted communities with few personal or community resources to pay actuarial flood rates or complete mitigation projects that lower the risk for those individual properties. Affordability is a key issue Congress must consider. We saw the kickback from higher premiums after BW-12 and in a couple years we believe premiums will be approaching that threshold again. In addition to robust ICC and FMA programs, some kind of revolving loan fund to assist property owners mitigate flood risk seems critical. We suggest this or some similar mechanism could provide low cost loans to mitigate the building to where premiums would now be lower and the building would be safer. Rather than subsidize insurance premiums, this would subsidize mitigation, a much more sustainable solution.

**TESTIMONY OF EVAN HECHT
CHIEF EXECUTIVE OFFICER
THE FLOOD INSURANCE AGENCY**

“Flood Insurance Reform: A Community Perspective”

**HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON
HOUSING AND INSURANCE
MARCH 16, 2017**

Introduction

Chairman Duffy, Ranking Member Cleaver, and members of the Subcommittee, my name is Evan Hecht and I am the Chief Executive Officer of The Flood Insurance Agency (TFIA). Thank you for the opportunity to testify.

TFIA is a retail and wholesale insurance agency whose sole focus is flood insurance. TFIA has been an active marketing participant in the Write-Your-Own (WYO) National Flood Insurance Program (NFIP) for almost 30 years. For the past three and a half years the company, operating as a Program Administrator for Lexington Insurance Company and a Coverholder for Lloyd’s of London, has underwritten and distributed Private Market Flood™, an alternative to FEMA flood insurance. We are one of the largest, if not the largest, writer of private flood insurance in the U.S. providing over \$3.5 billion of property coverage to more than 18,500 consumers through a network of over 2,000 independent insurance agencies. It is my intention to assist the Subcommittee with your deliberations on both flood insurance reform and the reauthorization of the NFIP.

Today, I would like to: (1) inform the Subcommittee of the current status of the private market; (2) dispel some misconceptions that some members may have regarding the private market; (3) provide the Subcommittee with samples and statistics evidencing testimonials of exemplary customer experiences; and (4) suggest legislative and regulatory changes that I believe would enhance the NFIP, protect taxpayers, and facilitate a robust private sector market for flood insurance.

Status of the Private Flood Insurance Marketplace

Private flood insurance alternatives to FEMA’s NFIP are more commonplace than some Subcommittee members may be aware. They first

became available simultaneously with the unintended consequences of the Biggert-Waters Flood Insurance Reform Act in October of 2013. Three and a half years have now transpired and those alternatives are no longer a novelty nor are they in their infancy. TFIA is just one private market provider, yet every day we renew a previously written policy every six minutes and we write a new policy every ten minutes. The general public's knowledge of the existence of alternatives to the NFIP is readily evidenced by astonishing data analytics; a unique user visits our website, www.privatemarketflood.com, every fifty-two seconds.

Misconceptions Regarding the Private Market

Concerns That the Private Market Will Cherry-Pick NFIP's Best Risks

While it is understandable that some might believe the private market would only want to write FEMA's best risks and leave all the poor risks in the NFIP, from our point of view, almost exactly the opposite is taking place. Nearly all of the 18,500 risks TFIA has taken from FEMA are subsidized policies, the policies FEMA believes are 45-50% underpriced. We believe that FEMA's actuarially rated risks are the policies that are not rate sufficient.

The July 2013 GAO Report to Congress "More Information Needed on Subsidized Properties", page 30, provides a summary of total premiums received and claims paid from 1978 to 2011 for both subsidized and actuarially rated policies. Surprisingly, the ratio of losses to premium is almost the same for both groups. Excerpts of the GAO report are provided with my written testimony.

Subsidized premiums have dramatically increased over the past ten years, actuarial premiums have not. I have provided with my written testimony examples of three FEMA policies with rate increases of actual TFIA clients that so demonstrate:

1. An actuarially rated policy written in 2005 for a property in California for \$225 renewed this year for \$372, an increase over the twelve years of 65%.
2. A subsidized rated policy written in Illinois in 2006 for \$998 renewed this year for \$2,525, an increase over the ten years of 153%.
3. A subsidized rated policy written in Louisiana in 2007 for \$553 renewed this year for \$2,130, an increase over the ten years of 285%.

While some private market providers may choose to write FEMA's actuarially rated risks, most of our private market competition is also choosing to write FEMA's subsidized risks. Of course, no private market provider will choose to write FEMA's severe repetitive loss properties, however they only represent a small fraction of FEMA's total policies. As a group we will also not entertain writing FEMA's grandfathered risks where they are knowingly charging a premium less than the known current exposure.

It is also noteworthy that FEMA's most hazardous rated policies, V (velocity) zones, have enjoyed the most favorable loss experience of any sub-group, while FEMA's preferred risk policies (PRP) have performed rather poorly.

Concerns That Private Flood Policies Written With Surplus Lines Insurance Companies Are Not Regulated

Every one of our 18,500 private market flood policies is presently written by a surplus lines insurer, either with Lexington Insurance Company, a member of the AIG group, or Lloyd's of London.

TFIA writes more than 2,000 surplus lines policies in Pennsylvania. On January 6, 2017, Pennsylvania Insurance Commissioner, Teresa Miller, in her letter to interagency financial regulators, states "I would note that even with the increased surplus lines activity for residential flood coverage over the past 11 months, the Pennsylvania Insurance Department has not received a single complaint concerning a surplus lines carrier."

Each surplus lines insurer is licensed and regulated in its home state or country, and is subject to the jurisdiction of the insured's home state, either indirectly by issuing a policy, or directly by obtaining status as an "approved" surplus lines insurer. Most states furnish an "approved" list of surplus lines insurers. The National Association of Insurance Commissioners (NAIC) also maintains a list of "approved" alien insurers that have met the criteria in the "International Insurers Department Plan of Operation".

Here's a quote from the California Surplus Lines Association publication entitled, *Non-admitted Does Not Mean Non-regulated*.

"NONADMITTED OR SURPLUS LINE – non-admitted does not mean nonregulated, as evidenced by this document. Non-admitted carriers on the LESLI List have been reviewed and approved by the California Department of Insurance (CDI) for surplus line insurance in

California. Non-admitted carriers on the LESLI List are actually “admitted” insurance carriers, in a state or domicile other than California. Surplus lines have been written by non-admitted carriers since the 1800’s, and generally are used when a risk is unusual, unusually large or when coverage is not available from carriers licensed in California.”

(SLAC, http://www.sla-cal.org/publications/pb_nonadmitted.html)

Each surplus lines broker is also licensed and regulated in the insured’s home state, which includes regulation of the transaction itself. It is the broker’s the responsibility to determine the solvency of the surplus lines insurer, as well as providing certain statutory notices to the insured, and complying with all state surplus lines tax laws.

Samples and Statistics Evidencing Testimonials of Exemplary Customer Experiences

TFIA is 100% committed to providing exceptional customer experiences. Our website allows testimonials to be submitted by a user. Since the first of the year we have received 73 testimonials. Remarkably, once or twice every day, someone takes their valuable time to let us know we are succeeding. Here are two such testimonials, one saving a client enough money to stay in their home and a second offering to cook us dinner due to a positive claims experience:

Tyson S

June 25, 2015

“Great Alternate to FEMA Flood Insurance. We live in Kansas in an area where it rarely to never floods but we are required to have flood insurance since we are within the 100 year flood plain. We are a young couple and this was our first home. We have had FEMA insurance for 5+ years now and during this time we saw our premiums nearly double during the last few years. The insurance on the home was getting to be so much that we were considering moving because we were barely able to make the payment. We had no idea that there was a private market flood insurance company that could provide us coverage at a competitive rate compared to FEMA. In the matter of minutes I was on the website and had a quote of the costs to switch to The Flood Insurance Agency at Lloyd’s. The amount of savings was incredible and we were able to keep the same coverage as our current policy. I quickly called the bank to check on my policy and we were

able to change insurance carriers by the end of the next month when my current policy expired. The process was quick and easy. I worked with several representatives and was able to print and sign the documents shared in a couple of emails. TFIA worked with my bank to make all the changes needed on our escrow account. Within a week of receiving our new policy we had a check in the mail from our bank. They were refunding us the amount of overpaid money from our FEMA policy that we had been paying in over the last year. I have already recommended TFIA to neighbors and friends and others are making the switch also. Thanks to TFIA we are able to stay in our home.”

Dana L

September 15, 2016

“I wanted to say thank you so very much for expediting our claim. When I spoke to you on the phone that day, I must apologize for my tone and demeanor. Normally I never speak in such a manner, but this was just such an unexpected event and my frustrations overtook me. 92% of our community flooded and construction people were already being booked up. I was so concerned that we could not afford our mortgage and our temporary rental fee. Now we are on our way to restoring our home, thanks to you and Mr. Alex. Trying to list our contents has been very emotional for me but I am getting there. My entire kitchen contents and appliances could not be saved. Most girls would be devastated over losing their shoes, clothing, jewelry, or purses, which those were also not salvageable; but losing my vintage corning ware and other kitchen stuff hurt the worst. Everyone teases me! But they sure do love to eat my Cajun cooking! If you are ever over our way, let me know and I will cook you the best gumbo ever! Once again, we appreciate so very much for your attentiveness to our claim.”

The recent 2016 significant flooding in and around Baton Rouge, LA has been designated by FEMA as the fourth most costly event in the history of the NFIP. TFIA had 842 policies written in the entire state of Louisiana at the time of the event, 381 suffered flood damage. After adjusting for TFIA’s higher average deductible, our average loss of \$80,084 is the same as FEMA’s average loss. Our average time to settle a claim was 66 days. Zero complaints have been filed with the Louisiana Department of Insurance.

Legislative and Regulatory Changes That I Believe Would Enhance the NFIP, Protect Taxpayers, and Facilitate a Robust Private Sector Market for Flood Insurance

I urge Congress to pass the Flood Insurance Market Parity and Modernization Act that passed the full House of Representatives with bi-partisan support during the last session. This legislation provides much needed clarity to include surplus lines insurers in the definition of acceptable private flood insurance and requires FEMA to recognize private flood insurance as continuous coverage when qualifying for subsidized premiums.

TFIA pays its agents a 10% commission for the placement of private market flood insurance. I recommend the WYO financial arrangement be adjusted to reduce agent commissions to the same level of commissions paid to agents placing business with the NFIP directly, 15% of the first \$2,000 of annualized premium and 5% on the excess of \$2,000. This would be more in line with commissions agents currently receive for placing automobile and homeowners insurance. Many agents today receive WYO commissions of 20%-22% of the annualized premium. The cost savings of hundreds of millions of dollars could be used to either pay down the NFIP debt or provide assistance to low income property owners in high hazard flood areas to help them afford their flood insurance premiums.

Congress should consider requiring a federal policy fee equal to the FEMA federal policy fee on all private market flood insurance policies in order for the private policy to meet the definition of an acceptable private market flood insurance policy. This fee would be remitted to FEMA to provide funds for ongoing mapping expenses, similarly to how the current FEMA policy fee is allocated.

Conclusion

I thank the members of the Subcommittee for allowing me to testify before you today. I wholeheartedly support your mission and offer you my continued efforts should you request them.



July 2013

FLOOD INSURANCE

More Information Needed on Subsidized Properties

between 35 and 45 percent of the full-risk premium rate.³⁴ FEMA officials said that they did not report an estimate before the 1999 PwC report. Therefore, determining forgone premiums without these estimates would be difficult because the percentage of subsidized premium rates compared with full-risk rates may have varied considerably over time.

Although it was not possible to estimate forgone premiums since the program was established, the following provides information about the impact of subsidized premiums on the program.

- Data are not available from FEMA to estimate the forgone premiums before 2002. Using FEMA's estimated range of subsidy rates to actual premiums collected from 2002 through 2011, we conducted an analysis to estimate the premiums that could have been collected if subsidies had not existed over that period.³⁵ FEMA officials have clarified their estimate that 2011 subsidized premiums represented 40 percent to 45 percent of full-risk premium rates, explaining that after paying for all administrative and other expenses, the remaining premiums would cover about 40 to 45 percent of the expected average long-term annual losses.
- Premiums are used to cover not only claims, but also operating expenses and any debt. According to FEMA officials, 17 percent of forgone premiums would be needed to pay operating expenses that would increase if subsidized premiums were increased. Such expenses consist of premium taxes (about 2 to 2.5 percent of premium) and agents' commissions associated with the private insurance companies that sell and service NFIP policies (about 15 percent of premium). Therefore, about 83 percent would be available to help cover fixed expenses (which do not vary with premiums) and

³⁴In its actuarial rate review for 2011, FEMA estimated that currently subsidized policy rates were between 40 and 45 percent of full-risk premium rates. See FEMA, *National Flood Insurance Program: Actuarial Rate Review* (Washington, D.C.: October 2011). Prior ranges were between 35 and 40 percent. According to FEMA officials, FEMA changed the estimated range of the percentage of full-risk premiums that subsidized policyholders pay from 35 to 40 percent to 40 to 45 percent, after gradual increases in this percentage over the last several years. However, in commenting on a draft of this report, FEMA officials informed us that this percentage was actually the portion of subsidized premiums available to pay expected average long-term annual losses.

³⁵In comments on a draft of this report FEMA officials provided new information about variable expenses that could impact this estimate. GAO plans to undertake additional work to analyze the impact of these variables on our initial estimate of the financial impact of subsidized premiums on the program and report the results separately.

are used to pay not only claims but other costs of administering the program, they provide additional descriptive information. Moreover, because flooding is a highly variable event, with losses varying widely from year to year, even analysis of the decades of historical data available could lead to unreliable conclusions about actual flood risks. Based on our analysis of NFIP claims data, we calculated the amount of claims attributable to historically subsidized policies from 1978 through 2011 to have been \$24.1 billion, of which \$15.2 billion is attributable to remaining subsidized policies. NFIP had \$28.5 billion in claims for policies charged at the full-risk premium rates in the same time period. Based on data provided by FEMA on all subsidized premiums, we calculated the amount of premiums collected for all historically subsidized policies from 1978 through 2011 to have been \$26.2 billion, of which \$15.7 billion is attributable to remaining subsidized policies. Comparatively, FEMA collected \$33.7 billion in premiums for policies with full-risk premium rates for the same time period.

FEMA Lacks the Information Needed to Establish Full-Risk Rates That Reflect Risk of Flooding for Remaining Subsidized Policies

FEMA generally lacks information to establish full-risk rates that reflect flood risk for active policies that no longer qualify for subsidies as a result of the Biggert-Waters Act and also lacks a plan for proactively obtaining such information.³⁷ The act requires FEMA to phase in full-risk rates on these policies. Federal internal control standards state that agencies should identify and analyze risks associated with achieving program objectives, and use this information as a basis for developing a plan for mitigating the risks. In addition, these standards state that agencies should identify and obtain relevant and needed data to be able to meet program goals.

FEMA does not have key information used in determining full-risk rates from all policyholders. According to FEMA officials, not all policyholders have elevation certificates, which document their property's risk of flooding.³⁸ Information about elevation is critical for determining the location of a property in relation to the risk of flooding and is a key element in establishing premium rates. For instance, FEMA uses

³⁷Pub. L. No. 112-141, §100205 (a)(1).

³⁸Surveyors calculate the elevation of the first-level of a structure in relation to the expected flood level, or base flood elevation. According to FEMA, obtaining such a certificate typically would cost a policyholder from \$500 to \$2,000 or more.

Policy Number: [REDACTED]

FLOOD POLICY DECLARATIONS
New Hampshire Insurance Company

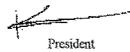
Type: Revised Declaration Standard Policy
Policy Period: 01/31/2005 To 01/31/2006 For payment status, call: (888) 245-7274
Original New Business Effective Date: These Declarations are effective
Reinstatement Date: as of: 12/20/2005 at 12:01 AM
Form: Dwelling

Address Info	Producer Name and Mailing Address: THE FLOOD INSURANCE AGENCY INC 5700 SW 34TH ST STE 402B GAINESVILLE, FL 32608-5300	Insured Name and Mailing Address: [REDACTED] VAL VERDE, CA [REDACTED]
	NFIP Policy Number: [REDACTED] Agent/Agency #: 03600-00867-000 Reference #: Phone #: (877) 356-6348	NAIC Number: 23841 Processed by: Flood Insurance Processing Center P.O. Box 2057 Kalispell MT 59903-2057

Property Info	Property Location: VAL VERDE, CA [REDACTED]	Building Description: Single Family Two Floors Slab On Grade
	Primary Residence: N Premium Payor: Insured Flood Risk/Rated Zone: AOB Current Zone: Community Number: 06 5043 0340 B Community Name: LOS ANGELES COUNTY* Grandfathered: No Post-Firm Construction: Program Type: Regular	Newly Mapped into SFHA: Elev Diff: N/A Elevated Building: N Replacement Cost: \$232,000 Number of Units: 1

Coverage & Rating	Type	Coverage	Rates	Deduct	Discount	Sub Total	Premium Calculation	
	Building:	232,000	.258 / .060	2,000	25	211.60	Premium Subtotal:	211.00
	Contents:						Multiplier:	
	Contents:						ICC Premium:	6.00
	Location:						CRS Discount:	22.00
							Reserve Fund Assmt:	.00
							HFIAA Surcharge:	.00
							Federal Policy Fee:	30.00
							Probation Surcharge:	.00
							Endorsement Amount:	373.00
Coverage Limitations May Apply. See Your Policy Form for Details.							Total Premium Paid:	225.00

Mortgage Info	First Mortgage: [REDACTED]	Loss Payee:
	Second Mortgage:	Disaster Agency:

 
 President Secretary

Policy Number: [REDACTED]

FLOOD POLICY DECLARATIONS
New Hampshire Insurance Company

Type: Revised Declaration
Policy Period: 01/31/2017 To 01/31/2018
Original New Business Effective Date: 01/31/2005
Reinstatement Date:
Form: Dwelling

Standard Policy
For payment status, call: (888) 245-7274
These Declarations are effective
as of: 03/13/2017 at 12:01 AM

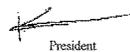
Address Info	Producer Name and Mailing Address: THE FLOOD INSURANCE AGENCY INC 5700 SW 34TH ST STE 402B GAINESVILLE, FL 32608-5300	Insured Name and Mailing Address: VAL VERDE, CA [REDACTED]
	NFIP Policy Number: [REDACTED] Agent/Agency #: 03600-00867-000 Reference #: Phone #: (877)356-6348	NAIC Number: 23841 Processed by: Flood Insurance Processing Center P.O. Box 2057 Kalispell MT 59903-2057

Property Info	Property Location: VAL VERDE, CA [REDACTED]	Building Description: Single Family Two Floors Slab On Grade
	Primary Residence: Y Premium Payor: Insured Flood Risk/Rated Zone: AOB Current Zone: AD Community Number: 06 5043 0800 F Community Name: LOS ANGELES COUNTY* Grandfathered: No Post-Firm Construction Program Type: Regular	Newly Mapped into SFHA: Elev Dife 1 Elevated Building: N Includes Addition(s) and Extension(s) Replacement Cost: \$232,000 Number of Units: 1

Type	Coverage	Rates	Deduct	Discount	Sub Total	Premium Calculation	
Building:	250,000	.280 / .080	2,000	21-	299.00	Premium Subtotal:	299.00
Contents:						Multiplier:	
Contents:						ICC Premium:	4.00
Location:						CRS Discount:	45.00
						Reserve Fund Assmt:	39.00
						HFLA Surcharge:	25.00
						Federal Policy Fee:	50.00
						Probation Surcharge:	.00
						Endorsement Amount:	.00
						Total Premium Paid:	372.00

Coverage Limitations May Apply. See Your Policy Form for Details.

Mortgage Info	First Mortgage: [REDACTED]	Loss Payee: [REDACTED]
	Second Mortgage: [REDACTED]	Disaster Agency: [REDACTED]

 President
 Secretary

Policy Number: [REDACTED]

FLOOD POLICY DECLARATIONS
New Hampshire Insurance Company

Type: Revised Declaration Standard Policy
Policy Period: 02/13/2006 To 02/13/2007
Original New Business Effective Date:
Reinstatement Date:
Form: Dwelling

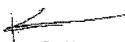
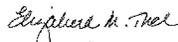
For payment status, call: (888) 245-7274
 These Declarations are effective
 as of: 02/14/2006 at 12:01 AM

Address Info	Producer Name and Mailing Address: THE FLOOD INSURANCE AGENCY INC 5700 SW 34TH ST STE 402B GAINESVILLE, FL 32608-5300	Insured Name and Mailing Address: [REDACTED] WOOD RIVER, IL [REDACTED]
	NFIP Policy Number: [REDACTED] Agent/Agency #: 03600-00867-000 Reference #: Phone #: (877) 356-6348	NAIC Number: 23841 Processed by: Flood Insurance Processing Center P.O. Box 2057 Kalispell MT 59903-2057

Property Info	Property Location: WOOD RIVER, IL [REDACTED]	Building Description: Single Family Two Floors Basement
	Primary Residence: Y Premium Payor: Insured Flood Risk/Rated Zone: AH Current Zone: Community Number: 17 0451 0005 B Community Name: WOOD RIVER, CITY OF Grandfathered: No Pre-Firm Construction Program Type: Regular	Newly Mapped into SFHA: Elev Diff N/A Elevated Building: N Replacement Cost: \$160,000 Number of Units:

Coverage & Rating	Type	Coverage	Rates	Deduct	Discount	Sub Total	Premium Calculation	
	Building	160,000	.810 / .1500	2,000	62-	893.00	Premium Subtotal:	893.00
	Contents						Multiplier	
	Location:						HCC Premium:	75.00
							CRS Discount:	.00
							Reserve Fund Assmt:	.00
							HFIAA Surcharge:	.00
							Federal Policy Fee:	30.00
							Probation Surcharge:	.00
							Endorsement Amount:	.00
Coverage Limitations May Apply. See Your Policy Form for Details.							Total Premium Paid:	998.00

Mortgage Info	First Mortgage: [REDACTED]	Loss Payee: [REDACTED]
	Second Mortgage: [REDACTED]	Disaster Agency: [REDACTED]

 President
  Secretary

Policy Number: [REDACTED]

FLOOD POLICY DECLARATIONS
New Hampshire Insurance Company

Standard Policy Pre-FIRM Subsidized
Type: Renewal
Policy Period: 02/13/2017 To 02/13/2018
Original New Business Effective Date: 02/13/2006
Reinstatement Date:
Form: Dwelling
 For payment status, call: (888) 245-7274
 These Declarations are effective
 as of: 02/13/2017 at 12:01 AM

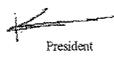
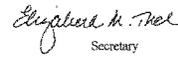
Address Info	Producer Name and Mailing Address: THE FLOOD INSURANCE AGENCY INC 5700 SW 34TH ST STE 402B GAINESVILLE, FL 32608-5300	Insured Name and Mailing Address: [REDACTED] WOOD RIVER, IL [REDACTED]
	NFIP Policy Number: [REDACTED] Agent/Agency #: 03600-00867-000 Reference #: Phone #: (877)356-6348	NAIC Number: 23841 Processed by: Flood Insurance Processing Center P.O. Box 2057 Kalispell MT 59903-2057

Property Info	Property Location: [REDACTED] WOOD RIVER, IL [REDACTED]	Building Description: Single Family Two Floors Basement
	Primary Residence: Y Premium Payor: Insured Flood Risk/Rated Zone: AH Current Zone: Community Number: 17 0451 0005 B Community Name: WOOD RIVER, CITY OF Grandfathered: No Pre-Firm Construction Program Type: Regular	Newly Mapped into SFHA: Elev Diff: N/A Elevated Building: N Includes Addition(s) and Extension(s) Replacement Cost: \$160,000 Number of Units: 1

Type	Coverage	Rates	Deduct	Discount	Sub Total	Premium Calculation
Building:	287,000	1.000 / 1.260	5,000	392	2,060.00	Premium Subtotal: 2,060.00
Contents:						Multiplier: 76.00
Contents:						ICC Premium: .00
Location:						CRS Discount: .00
						Reserve Fund Assmt: 320.00
						HFIAA Surcharge: 25.00
						Federal Policy Fee: 50.00
						Probation Surcharge: .00
						Endorsement Amount: .00
						Total Premium Paid: 2,525.00

Coverage Limitations May Apply. See Your Policy Form for Details.

Mortgage Info	First Mortgage: [REDACTED]	Loss Payee: [REDACTED]
	Second Mortgage: [REDACTED]	Disaster Agency: [REDACTED]

 President
 Secretary

Policy Number: [REDACTED]

FLOOD POLICY DECLARATIONS
New Hampshire Insurance Company

Standard Policy

Type: New Business
 Policy Period: 03/28/2007 To 03/28/2008
 Original New Business Effective Date: 03/28/2007
 Reinstatement Date:
 Form: Dwelling

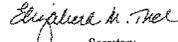
For payment status, call: (888) 245-7274
 These Declarations are effective
 as of: 03/28/2007 at 12:01 AM

Address Info	Producer Name and Mailing Address: THE FLOOD INSURANCE AGENCY INC 5700 SW 34TH ST STE 402B GAINESVILLE, FL 32608-5300	Insured Name and Mailing Address: [REDACTED] METAIRIE, LA [REDACTED]
	NFIP Policy Number: [REDACTED] Agent/Agency #: 03600-00867-000 Reference #: Phone #: (877)356-6348	NAIC Number: 23841 Processed by: Flood Insurance Processing Center P.O. Box 2057 Kalispell MT 59903-2057

Property Info	Property Location: METAIRIE, LA [REDACTED]	Building Description: Single Family One Floor Slab On Grade
	Primary Residence: N Premium Payor: Insured Flood Risk/Rated Zone: AE Current Zone: Community Number: 22 5199 0045 E Community Name: JEFFERSON PARISH* Grandfathered: NO Pre-Firm Construction Program Type: Regular	Newly Mapped into SFHA: Elev Diff: N/A Elevated Building: N Replacement Cost: \$130,000 Number of Units: 1

Coverage & Rating	Type	Coverage	Rates	Deduct	Discount	Sub Total	Premium Calculation	
	Building	127,000	.760 / .400	5,000	148	540.00	Premium Subtotal:	540.00
	Contents						Multiplier:	
	Location:						ICC Premium:	75.00
							CRS Discount:	92.00
							Reserve Fund Assmt:	.00
							HFMAA Surcharge:	.00
							Federal Policy Fee:	30.00
							Probation Surcharge:	.00
							Endorsement Amount:	.00
Coverage Limitations May Apply. See Your Policy Form for Details.							Total Premium Paid:	553.00

Mortgage Info	First Mortgage: [REDACTED]	Loss Payee: [REDACTED]
	Second Mortgage: [REDACTED]	Disaster Agency: [REDACTED]

 President
  Secretary

Policy Number: [REDACTED]

FLOOD POLICY DECLARATIONS
New Hampshire Insurance Company

Standard Policy Pre-FIRM Subsidized

Type: Renewal

Policy Period: 03/28/2017 To 03/28/2018

Original New Business Effective Date: 03/28/2007

Reinstatement Date:

Form: Dwelling

For payment status, call: (888) 245-7274

These Declarations are effective

as of: 03/28/2017 at 12:01 AM

Address Info	Producer Name and Mailing Address: THE FLOOD INSURANCE AGENCY INC 5700 SW 34TH ST STE 402B GAINESVILLE, FL 32608-5300	Insured Name and Mailing Address: METAIRIE, LA [REDACTED]																																																																																	
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	Second Mortgage:	Disaster Agency:																																																																																	


President


Secretary

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STATEMENT
OF
MELISSA H. LUCKMAN, ESQ.
VISITING ASSISTANT CLINICAL PROFESSOR OF LAW
DIRECTOR OF THE TOURO LAW CENTER DISASTER RELIEF CLINIC
BEFORE
THE
HOUSING AND INSURANCE SUBCOMMITTEE
FINANCIAL SERVICES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON D.C.

“Flood Insurance Reform: A Community Perspective”

Submitted by

Melissa H. Luckman, Esq.

Touro Law Center Disaster Relief Clinic

225 Eastview Drive

Central Islip, NY 11722

March 16, 2017

INTRODUCTION

Good afternoon Chairman Duffy, Ranking Member Cleaver, and Members of the Subcommittee. My name is Melissa Luckman and I am the Director of the Touro Law Center's Disaster Relief Clinic. My Clinic is State funded through the Social Services Block Grant (SSBG), which provides all *pro bono* legal services to Superstorm Sandy Survivors. While we assist with homeowners with various categories of assistance, flood insurance has always been our primary focus. I want to thank you for the opportunity to testify about the National Flood Insurance Program and provide suggestions for reform as we quickly approach the September 2017 expiration of this program.

TOURO LAW CENTER DISASTER RELIEF CLINIC BACKGROUND

Within three days of Sandy, the Touro College Jacob D. Fuchsberg Law Center established a help center for Sandy victims in need of legal services through its Sandy Hurricane Emergency Assistance and Referral Team hotline. It was launched by the Touro Law Center together with partners the Suffolk County Bar Association, the Disaster Relief Law Center "You. Me. We." and the student Disaster Relief Network. The hotline has grown and evolved into a full service legal Clinic to address the changing needs of Sandy survivors since the storm. The Clinic stands as a voice for victims, a support system for those who feel helpless and need guidance, a community resource and an agent of change.

The mission of the Clinic is to assist Sandy-affected New York households with a focus on Nassau and Suffolk Counties. The Clinic assists clients with various legal issues and disputes, which include: (1) Flood insurance or homeowner insurance underpayments or denials of coverage; (2) Contractors who misappropriated funds or incorrectly performed contracted services; (3) FEMA recoupments of Individuals and Households Program (IHP) benefits; (4) Assistance with the NY Rising Program and NY Rising recoupments; (5) Working with policymakers to positively reform the flood insurance program; and (6) Assistance with the FEMA Sandy Claims Review Process. The Disaster Relief Clinic is one of its kind, helping thousands in need. To date we have spoken with over 5,000 households and represented over 1,400 homeowners with various Sandy issues.

As I previously mentioned, while our Clinic provides legal assistance to all Sandy survivors, our main focus has been assisting homeowners navigate through the National Flood Insurance Program and flood claim submissions. We have provided assistance to homeowners with supplemental insurance claims, flood insurance Appeals, flood insurance litigation, and most recently, assistance with the FEMA Sandy Claims Review Process.

To date we remain the only New York non-profit who filed ten (10) federal lawsuits against the NFIP and various Write Your Owns (WYOs), all of which have settled in excess of \$1.28 million dollars for our clients.

On April 28, 2015 the Touro Law Center Disaster Relief Clinic was invited to Washington D.C. to participate in the first meeting of the Sandy Task Force to examine problems within the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP)

arising in the wake of Superstorm Sandy and develop recommendations for short and long term reform.

As a result of the Task Force meeting, FEMA created a Sandy Claims Review Process, which the Clinic played an integral role in representing the voices of the homeowners and a non-profit Clinic. To date we are representing 90 Sandy victims through the claims review process, which has netted over \$1.5m dollars for our clients. We still have 40 open cases for FEMA review which will be presented to a Third Party Neutral and continue to take on new cases.

We have been fortunate to having a professional working relationship with Roy Wright, Deputy Associate Administrator for Insurance and Mitigation, and his predecessor Brad Keiserman, along with the Sandy Transformation Staff. While flood insurance proceeds are now being paid out to homeowners four-and-a-half (4 ½) years post-Sandy, my involvement and understanding of the NFIP has exposed administrative issues within the NFIP along with necessary policy reform.

PROPOSALS FOR NFIP REAUTHORIZATION

First and foremost, I would like to state that I do believe the NFIP should be reauthorized, as it provides a valuable subsidized flood insurance policy to thousands of homeowners in the United States. *However*, there must be significant reform to ensure the program functions in a more efficient manner than it does today.

The greatest lesson learned from my involvement with flood insurance claims, is the simple concept of “*Getting it Right from the Start*”. As flooding is one of the most costly natural disasters, and unfortunately, floods are becoming a common event, it is imperative that we shift our focus from reactive response to proactive education and response to ensure a full and complete recovery, to create a more sustainable future not only for our Country, but also for the National Flood Insurance Program.

As the NFIP underwrites and bears all risk related to all NFIP policies, the NFIP should be permitted to enforce stricter guidance and requirements among those participating actors. The relationship between the NFIP and WYOs indirectly afford private companies sovereign immunity, and in return, there should be stricter oversight and regulations to participate in the sales of a government product.

My proposals for reauthorization are as follows:

- I. **STANDARDIZED EDUCATIONAL REQUIREMENTS FOR ALL ACTORS CONNECTED TO AN NFIP POLICY TO RESOLVE THE ISSUE OF TRAINING DISPARITY**

First, I believe there should be standardized requirements of education and/or certification for all actors connected to an NFIP policy, which would include the WYO staff adjusters, independent adjusters, engineers, as well as the sales agent. All aforementioned actors play a key role in the sales and administration of an NFIP policy, yet different educational requirements are set forth for all actors. The NFIP should establish additional education requirements beyond the current

minimum and develop an ongoing continuing education requirements for *all* agents, adjusters and engineers who will touch an NFIP flood policy and/or claim.

Sales agents are trained to tell policyholders what will be covered for a flooding event, however adjusters actually scope and value a claim. Additionally, engineers are hired to inspect claims which most often include the most expensive and costly repair damage from a flooding event—that being the foundation. Just as there are NFIP Certified Adjusters, there should be NFIP Authorized Agents, and Engineers.

Based upon information and belief, the research I have done reveals that the only requirements for education are as follows: (1) Sales Agents must attend a one-time, three-hour flood training to allow them to sell a NFIP policy; and (2) Independent Adjusters (IA) must attend an annual NFIP one-day certification, to remain eligible to adjust NFIP claims, and (3) Engineers must be licensed in the State which suffered a flooding event.

In the time of major disaster as we saw post-Sandy, there is a great need for additional adjusters and engineers to ensure timely adjusting of claims. However, it was quite evident that many adjusters and engineers did not possess the requisite knowledge and experience to handle NFIP flood claims of such magnitude.

As set forth by William Craig Fugate, former Administrator of the Federal Emergency Management Agency, in his Fiscal Year 2015 Report to Congress, FEMA recognizes that at any particular time there is a limited pool of available certified adjusters and has identified several ways to manage strained NFIP certified adjuster resources in large events: (1) FEMA authorizes emergency adjuster certification for WYO companies and independent adjusting firms by conducting additional adjuster certification workshops in the affected areas; (2) *FEMA may provide a limited waiver and allow adjusters with expired certifications to adjust flood claims for a limited period of time.*

In September 2016, the National Advisory Council (NAC) made a similar recommendation to FEMA indicating that:

“A key component of a successful flood insurance program is to maintain the confidence of survivors. This is accomplished by ensuring that adjusters have the training and tools to handle claims in a just-in-time environment. FEMA should implement enhanced standards and guidance for all levels of adjusters resulting in a new FEMA-administered certification program for flood insurance adjusters to raise the level of practice within the adjuster community and standardize adjusting practices after a flood event.”

It is neither sufficient nor efficient to have WYOs hosting their own training and educational events. As has been noted by the U.S. Government Accountability Office (GAO), there must be additional oversight by FEMA over the WYOs. By requiring FEMA administered education and certification, this would ensure adjuster compliance with FEMA requirements. This would also create standardization within the NFIP among its numerous WYO partners, participating agents, adjusters and engineers.

As also set forth by the NAC, there are currently no testing requirements for adjusters. FEMA should conduct regular evaluations and testing of adjusters employed by WYO companies to ensure they maintain standard competencies over time as part of the certification and renewal process.

Quite candidly, I would like to advise the members of the subcommittee that I personally attended the February 2017 NFIP Adjuster Certification in Iselin, New Jersey. While the phrase “policyholder centric” is continuously stated, so are phrases such as “if an item can get wet, how is it ruined by flood waters?”. There is an obvious distinction between an item that can get “wet” and one that is destroyed by storm waters.

The current certification courses taking place are hosted by H2O Partners Inc. H2O Partners, Inc. (H2O), a Texas Historically Underutilized Business (HUB), and Women’s Business Enterprise (WBE), was formed in 2001 by Jo Ann Howard, former Federal Insurance Administrator at FEMA. According to their website, H2O Partners, Inc. was selected to provide training for the National Flood Insurance Program beginning in 2008.

The Adjuster Certification courses should also include construction professionals, and the presence of FEMA personnel. As these Certification courses are already taking place, there is no reason why agents, in-house adjusters, and engineers should not also be required to attend and ensure they are acting in compliance with the NFIP. An alternative to hosting live events would be the use of webinar presentations to ensure that one message in solidarity from FEMA is being set forth.

Standardized and continued educational requirements for all engaged Actors, would implement quality control among those participating in the NFIP.

II. IMPROVED REQUIREMENTS AT THE INCEPTION OF A NFIP POLICY

Next, I believe there needs to be additional requirements of policyholder acknowledgment and inspection at the inception of an NFIP policy.

First let’s discuss improved disclosure requirements which would act as a safeguard for the sales agent, the NFIP and the policyholder. In the wake of Sandy, policyholders voiced a host of complaints with regard to their flood insurance coverage; more specifically, the coverage they actually had versus the coverage they believed they had.

Those areas of dispute which were most commonly expressed were: (1) the ‘advice’ of an agent to carry a structure policy of \$250,000 when in fact the homeowner did not have a mortgage or a mortgage of under \$250,000; (2) the lack of contents coverage; (3) the limitation of a basement.

Quite often, policyholders who could barely afford their premiums, felt the cost was not worth the coverage. This was often the case for homeowners who paid premiums for maximum coverages, when in fact there would never be the opportunity for that homeowner to collect their maximum policy of insurance proceeds. These issues resulted in lawsuits against the NFIP as well as against Sales Agents, which can be avoided.

A simple solution to these issues is a requirement that all NFIP policies must be accompanied by an Acknowledgement which **must be executed by the policyholder and the sales agent**, at the inception of a policy which states in plain language as follows:

- (1) I, *Policyholder*, understand and acknowledge that I do/do not have a mortgage on the property I am seeking to insure, and understand that unless I have a mortgage of \$250,000 that I **am not required** to carry \$250,000 in structure coverage.
- (2) I, *Policyholder*, understand and acknowledge that contents coverage is an optional coverage, which has been discussed in detail with my Sales Agent, and that I have chosen to accept/reject contents coverage.
- (3) I, *Policyholder*, understand and acknowledge that based upon the description of my property/submission of photographic documentation, which has been reviewed with my Sales Agent, that I do/do not have a basement, and that there are limitations on coverage in a basement.

This point also refers back to the need for standardized education so that Agents can provide accurate and the most updated information at the time a policyholder takes out a flood insurance policy.

As policyholders have taken part in policy renewals since Sandy, we have also spoken with many homeowners who continue to express frustration with the Homeowner Flood Insurance Affordability Act (HFIAA) annual surcharge. The amount of the HFIAA surcharge, among other items, is dependent upon the use of the insured building with a focus on Primary Residency. The current surcharge for a policy on an insureds primary residency is only \$25, while the surcharge for secondary and other properties is \$250.

In accordance with the report of the December 2015 Annual Report of the Office of the Flood Insurance Advocate, upon policy renewal policyholders are required to verify the structure is their primary residence by supplying an insurer with supporting documentation. Notification is sent to the policyholder by the insurer at least 90 days prior to the policy renewal date. If the documentation is not sent back to the insurer verifying it is a primary residence, the default assumption is that the structure is not a primary residence and the policyholder will be charged a \$250 surcharge on the policy renewal invoice. This issue is exacerbated when the mortgagee pays the renewal premium for the higher amount, which causes an imbalance in the policyholder's escrow account, and may be difficult to be refunded once the policyholder submits the appropriate documentation to the insurer. This issue is likewise exacerbated post major disaster when a policyholder may completely lose their home, or not have access to their home for a prolonged period of time.

While FEMA has taken steps to communicate this information through the WYO insurance companies, and has updated training materials, it appears that the issue of Primary Residency should also be included on the executed Acknowledgement form previously discussed at the time of inception of the policy. Furthermore, the current assumption should be reversed, and brought in-line with a "policyholder centric" mentality, to assume that the information signed and

provided at the time of policy inception is correct and has gone unchanged, and that the property remains the policyholder's primary residence. The Acknowledgment could state as follows:

(4) I, *Policyholder*, understand and acknowledge that the property I am insuring is/is not my Primary Residence, and that my HFIAA surcharge will be assessed in accordance therewith.

Next, let's discuss the necessity for a baseline photographic inspection which should take place at the inception of an NFIP policy. This pre-inspection affords great benefits to: (1) the NFIP, as they will have an accurate description regarding a covered property; (2) the Agent, as the photographs will substantiate the information on the Declaration Page and executed Acknowledgment previously addressed; and (3) the Policyholder, as they can be sure they are paying a premium based upon an accurate description of their property.

Similar to the issuance of a Homeowners Insurance Policy, there should be *any* type of photographic inspection completed of the property for which flood insurance is being sought to ensure the information set forth in the application is correct. (Description, flood zone, presence of a basement, etc.)

I believe there are various methods which could be employed to fulfill the requirement of photographic inspection: (1) the policyholder can provide a copy of the Homeowners Insurance Inspection Report to the flood agent, which will result in no additional cost to any party; (2) the policyholder can provide a copy of the Appraisal Report which must be obtained in association with a mortgage, which will result in no additional cost to any party; (3) the policyholder can have the option to request a structural engineer inspect the property, which will result in an additional cost to either the policyholder and/or the WYO/NFIP Servicing Agent.

A main concern for flood carriers, mortgage providers, and real estate brokers, would be the potential of a delay an inspection could cause in relation to the purchase of a property. Currently, there is a statutory 30-day wait time for a flood policy to go into effect. However, 42 USC 4013 (c)(2)(A) CFR 61.11(b) allows for next day coverage when initial purchase of a policy is in connection with a mortgage loan transaction. This can be amended to allow for a flood insurance policy to operate in the same manner as a homeowner's insurance policy. For example, when purchasing a property, a buyer must apply for homeowner's insurance policy in advance of closing, however the policy does not go into effect until the closing of the property/mortgage. Flood insurance could operate in the same manner, to prevent any time delays and cause indirect harm to the real estate market.

Currently, if at the time of a loss an adjuster reviews a policy/declaration page and determines it to be incorrect, the adjuster is responsible for advising the underwriting department of the applicable flood insurance carrier. At that time, a correction will be made to the policy. This again integrates human error into the proper description and rating of a policy. A pre-inspection would reduce improperly written policies which is associated with improper premiums.

If the NFIP would agree to pre-inspection prior to issuance of a flood policy it would benefit (1) homeowner who is paying the correct premiums for the proper risk and coverage; (2) the

community as the policyholder could potentially recover from a storm with proper coverage; (3) FEMA, as they will know the true landscape of the structures they are insuring.

Lastly, a pre-inspection could serve as a baseline of the quality of the house, items located within the home, etc. at the time of a storm, which could alleviate the need for a homeowner to photograph an entire loss, or in the case of Sandy piece a crime scene back together four years post-disaster.

III. CLAIMS & APPEALS PROCESS

I also believe that a policyholder should have advance notice of the adjuster who is coming to adjust a claim, with an opportunity to “veto” and request re-assignment. A policyholder should be advised in advance who the adjusting and engineering companies will be who will be assigned to their claim. Thereafter, the homeowner should be afforded a reasonable opportunity to research and investigate that company, with the option to “veto” and request another company be reassigned to their claim.

From working through Sandy claims, it has become apparent that the requirement for the submission of a Proof of Loss form should be discarded. The claims process with auto insurance, or homeowners insurance claims (two claims most homeowners are the most familiar) are purely based upon the submission of proof of damages with inspection by the insurance company. Homeowners do not understand how to properly complete a POL, and a proper and timely POL is required as the pre-cursor to filing a lawsuit. As a non-profit who assisted with the submission of these POL forms, we likewise needed the expertise of experienced adjusters to assist with the valuations which must be set forth on the form. Policyholders must of course be required to submit a “proof of damages statement”, as one is required to start the SOL for a lawsuit, however it should be revised so that a policyholder can understand and complete the form without being forced to hire an expert.

It also became apparent working through Sandy claims, that there should be an extended timeframe for the deadline to submit a Proof of Loss/Statement of damages. The SFIP provides that policyholders must submit a timely proof of loss as a prerequisite to filing a lawsuit. The proof of loss deadline is sixty days “after the loss” by default under the SFIP, which FEMA may extend. However, in all recent major flooding disasters, there have been extensions of this deadline upon the requests of members of Congress. It is also confusing and frustrating for policyholders to be waiting for FEMA to issue a bulletin allowing an extension. There should be a reasonable time frame, which must be set forth in the SFIP, to allow proper time for a homeowner to inspect his home and determine the proper value and scope of covered damages. Sixty days is an unrealistic time frame for this to occur.

The Appeals process should be handled by a Neutral arbitrator who is not employed by FEMA. While the NFIP has made internal improvements post-Sandy and is shifting its operation to be more ‘survivor centric’; based upon the most recently released February 10, 2017 FEMA Sandy Claims Review Division Update, only 412 out of 2,388 files received by the Neutral Review Operations Group have been completed.

The Neutral Review was implemented as an option of last resort if a dispute still existed after a FEMA adjuster reviewed a claim. Those files which have been completed by the Neutral Review Group have already resulted in *additional* payments in excess seven million dollars (\$7,000,000). We must remember, that for our Sandy survivors, a dollar in their pocket today is not equal to a dollar in their pocket immediately post-Sandy.

Additionally, there should be an extension of the SOL associated with the filing of a lawsuit. The current one year statute of limitations puts a great burden on homeowners who are in the process of storm recovery. Furthermore, there should be a clear indication of any denial of POL/Statement of Damages which starts the SOL for the time to file a lawsuit. Any denial should clearly state on it *“This is your denial which starts your SOL to file a timely lawsuit”*.

IV. MITIGATION: INCREASED COST OF COMPLIANCE

By law, FEMA can only provide flood insurance to those communities that adopt and enforce floodplain management regulations that meet or exceed minimum NFIP requirements. As set forth by Mr. Wright in his written testimony before this subcommittee on March 9, 2017, “FEMA studies have found structures built to NFIP standards experience 73 percent less damage than structure not built to these standards; as a result, the standards reduce flood losses by \$1.9billion per year.” It is clear the mitigation is not only important to structures for future resiliency, but is a cost-effective measure for future flood payouts from the NFIP.

As policyholders are already paying a portion of their premium towards Increased Cost of Compliance (ICC) coverage, I believe there are ways to expand the allowable scope of that coverage. The most used current triggers to receive ICC payments are Repetitive loss properties and the determination of Substantial Damage. The current options for use are Elevation, Relocation of property, Demolition, and Floodproofing. The two major costs post-Sandy which homeowners struggled with the most, are (1) accessibility (ramps/elevators) post elevation; and (2) additional costs policyholders face with complying with local building code. I believe these are two very important items policyholders need for recovery, which could be potentially covered through ICC, without the trigger of ‘substantial damage’.

Based upon experience from Sandy, I have also learned that the cost of elevation is well above the \$30,000 provided from ICC. Increasing the amount of ICC, or having the option for homeowners to purchase additional ICC coverage, above the \$250,000 would assist in proper recovery and a resilient future.

V. CHANGES TO THE STANDARD FLOOD INSURANCE POLICY

A Porch is not defined in the policy, yet it is a covered item as long as it is space under the roof line of the home. This should be added in plain language

Contents: In order to receive money for contents, they must be “properly secured”. After Sandy we saw many personal items in the street, in the water, some washed away, etc. At the adjuster certification presentation it was made very clear that contents which are no longer in the homeowners’ possession would not be compensated. This should be revised to allow

homeowners to establish they owned the property, the doors and/or windows were opened by the storm, and items went missing. If the above can be proven, the items should be reimbursable, as we have been able to secure payments for these items based upon Affidavits in the Review Process, however, it was not working immediately post-storm.

Remove Earth Movement Exclusion: The standard flood insurance policy includes the so-called “earth movement” exclusion, which states that flood insurance policies do not cover damage and loss to property caused by “earth movement,” even if the earth movement was caused by flood. This exclusion has been improperly used as a basis to deny claims filed by many Sandy claimants. If not removed, this exclusion should be clarified in a manner policyholders can understand.

VI. NATIONAL REGISTRY

Funding a non-profit to create and maintain a registry of all WYO’s, adjusters, engineers, and sales agent who are involved with the NFIP. The database should track involvement which would affect the NFIP, including, associated adjusting companies, # claims completed as well as those which resulted in litigation, professional affiliations, etc.

FEMA has assigned Flood Certification Numbers (FCN) to adjusters, which should also be assigned to Agents and Engineers. The Registry can use FCN’s to easily track all NFIP associated activities.

VII. LITIGATION COSTS

Policyholders who act in good faith through the submission, and appeals process who are forced to pursue litigation as a result of continued underpayments by the NFIP, should be entitled to reimbursement of legal fees.

In order to qualify, a policyholder should need to establish: (1) they submitted documentation for an initial claim; (2) submitted substantiating documentation for supplemental claim; (3) Pursued Appeal; and was left with no option but to file litigation.

Should that homeowner be successful in litigation, there should be a presumption that the flood insurance company acted in bad faith, and therefore the policyholder should be provided legal fees.

VIII. WRITE YOUR OWN AND SERVICING PARTNERS FOR NFIP DIRECT

There must be hard penalties put in place for Agencies selling NFIP direct policies or WYO carriers when there is an indication of bad faith, fraudulent activities, over-billing and improper adjusting. In the aftermath of Sandy, homeowners were the only individuals penalized for all the improper adjusting and/or engineering fraud. Not one WYO, Engineering Firm, Adjusting firm, was asked to refund the NFIP based upon their improper work post-Sandy.

First and foremost, FEMA should modify the audit requirement of WYO carriers whereby a penalty is not only charged for overpaying a claim, *but a similar penalty is charged for underpaying a claim.*

With regard to Hi-Rise Engineering, P.C., the NFIP should not allow any engineer who worked for HiRise and was involved in fraudulent reporting at the time of Sandy to take part in the NFIP. Matthew Pappalardo and HiRise Engineering, P.C. (HiRise) were recently charged with 25 counts of Forgery in the Second Degree, a class D Felony; Pappalardo was also charged with 25 counts of Unauthorized Practice of Engineering, a class E Felony. Notwithstanding evidence that HiRise/Pappalardo purposefully manipulated the analysis of engineers who visited these homes first-hand and then used the conclusions of these reports as the basis to deny homeowners of legitimate claims of damage from the storm, both were recently punished with a 'slap on the wrist'. HiRise was banned from participating in the NFIP and issued a \$225,000 fine, while Pappalardo was given three years' probation and a \$10,000 fine.

It is imperative that the NFIP restore the public's faith in the program, and enforce strict rules and penalties against those who act in bad faith. The risk of "reputational harm" is insufficient.

We found during the review process that many engineers who worked for both above listed companies were hired and affirmed the prior findings of numerous improper and fraudulent reports. In fact, we found evidence that an engineer was hired and reviewed his own report in the review process. Simply put, this cannot continue.

IX. CONGRESSWOMAN VELAZQUEZ LEGISLATION

I have reviewed the recently introduced legislation by Congresswoman Velazquez , H.R. 1423, the National Flood Insurance Program Reauthorization and Improvement Act of 2017, which calls for many of the items I have discussed here today, such as the Acknowledgements, education for all parties participating in the NFIP, pre-inspections, attorney's fees, the right to Veto a company as well as the National Registry.

I believe that Congress should pass this legislation or adopt many of these ideas in the final re-authorization bill. This bill and my proposals here today are common-sense reforms which will lead to a stronger and more cost effective NFIP.

X. MANDATORY TIME FOR RE-AUTHORIZATION TO AVOID 'SHORT-TERM EXTENSIONS' OR 'LAPSES' WITH REPORTING REQUIREMENT

Mandatory re-authorization should occur every five (5) years. Realistically, reauthorization during a shorter time frame could become a burden on the Government. However, a longer timeframe provides the NFIP with an excessive time period during which Congress would not be permitted to make major changes, outside of legislation.

The NFIP should produce a report for each reauthorization time period reporting to Congress on: number claims, appeals, number of cases which resulted in litigation, statistics per WYO.

CONCLUSION

To summarize my comments here today, I do believe that the NFIP should be reauthorized in a timely manner. I believe the program offers many benefits to policyholders, however there are numerous administrative reforms which should be enforced, as those discussed here today.

“Getting It Right from the Start” is the key which will allow a quicker and stronger recovery as well as a more resilient future.

United State House of Representatives
Committee on Financial Services
Subcommittee on Housing and Insurance

Flood Insurance Reform: A Community Perspective
Thursday, March 16, 2017

Written Testimony of
Aram V. Terchunian, M.Sc.
Coastal Geologist and Environmental Scientist

Good afternoon, my name is Aram Terchunian, I am a practicing coastal geologist and environmental scientist from Westhampton Beach, Long Island, NY. For over 35 years I have helped people identify coastal risk, mitigate coastal risk, and to recover and adapt when risk becomes reality. My main geographic area of expertise is the barrier island of Long Island from Montauk to Queens, including the Atlantic Ocean, Long Island Sound and the bays and creeks of Long Island.

Thank you to Chairman Duffy, Ranking Member Cleaver, my Congressman Lee Zeldin, and the Subcommittee for this opportunity to speak on the topic of flood insurance reforms. Congressman Zeldin has been a true leader in working with our communities and the Army Corps of Engineers to help protect our communities and mitigate future disasters.

Flood insurance and the National Flood Insurance Program (NFIP) have helped save lives, property and resources through a classic carrot and stick program of incentives and regulations. However, changing technology, science, and policy have created new opportunities to improve the program. In a nutshell, newer buildings that are constructed and maintained to the NFIP standards and ICC building codes are experiencing far less flooding damage than older, legacy homes that do not meet present standards. Moreover, those areas protected by well designed, built, and maintained flood risk reduction projects, such as beach and dune nourishment, experience significantly less damage during extreme events.

Mitigation, primarily through elevation and modern construction standards, and incorporating resilient flood and erosion protection projects are the most cost effective manner of reducing damages to these homes, businesses, infrastructure, and resources. The goal in my opinion is to decrease the number of pre-FIRM substandard structures and increase flood protection and resiliency projects.

In coastal areas, this can be accomplished by integrated coastal risk mitigation.

Examples of Integrated Coastal Risk Mitigation

Several examples from Long Island's south shore help illustrate these benefits. West Hampton Dunes is a small two mile village on the barrier island of Long Island. In 1992 a coastal storm pierced the island, creating a one mile inlet and destroying almost 300 homes. At the time, it was used as the poster child of how to mismanage a beach. Today, this humble community is the blueprint for coastal management and flood insurance modernization. It is a net economic generator to the local, regional, and national economy as well as the NFIP premium pool.

Here's how it happened: The barrier island was rebuilt through a beach and dune project engineered and supervised by the US Army Corps of Engineers that incorporated state-of-the-art experience-based computer modeling. The Village of West Hampton Dunes under Mayor Gary Vegliante embarked upon an aggressive program of sand fencing and beach grass planting that increased the dune. The Village also implemented zoning measures that allowed property owners to build as much as 4 feet above the NFIP 100-year (0.1%) Flood Level.

In the 22 years since the project was constructed there have been zero houses lost and only minimal flood damage claims, even after Superstorm Sandy. This is an example of how integrating the US Army Corps of Engineers flood protection projects, with locally implemented NFIP and zoning regulations, and locally driven beach and dune enhancements have resulted in a resilient community that is a net benefit to the NFIP.

Conversely, surrounding communities that did not have an engineered flood protection project and were populated by a substantial number of pre-FIRM buildings suffered terribly during Superstorm Sandy. The human anguish in these areas exceeded even the substantial flood insurance, infrastructure, and natural resource losses.

This integrated model of coastal flooding and erosion management is being implemented in other local Long Island communities through a Public Private Partnership (PPP). For example, in the Sagaponack and Bridgehampton areas of Southampton Town, local oceanfront residents proposed and formed a self-taxing district and partnered in 2013 with the Town of Southampton to cost share a beach restoration program. This beach restoration program is coupled with a private dune restoration program increasing dunes to the NFIP standard. The Town of Southampton

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also has a robust land use code that protects beaches, dunes, and other natural protective features. The Town's building code exceeds the FEMA requirements, and the Town is credited for this through the Community Rating System (CRS).

This type of integrated coastal risk reduction is also applicable to small bayfront communities. In another example, 62 residents of the North Sea area of Southampton are developing a privately funded erosion control district that will address a chronic erosion problem caused by a local inlet. This project will reduce coastal erosion risk that threatens to undermine bluffs and homes on the Peconic Bay. It's a bootstrap approach to citizens taking the initiative to solve their own problems with the town, county and state serving only in a governance and regulatory capacity. The citizens themselves are solving their own problems. When finalized, this will be a model for other middle class areas of both Long Island, and around the Country.

The Southampton Town Supervisor, Jay Schneiderman, members of the Town Board, and their predecessors should be proud of their best in class mitigation efforts.

These examples point to the local government at the catalyst for integrating the NFIP with other federal initiatives. There is a need to improve and integrate the NFIP into existing Federal, State, and local coastal risk reduction efforts. Incentivizing local residents is an effective way to spur this reform.

How to Incentivize Local Communities through the NFIP

Local communities are incentivized if they can provide increased flood and erosion protection to all or a portion of their community at minimal cost. One method FEMA uses is through the Community Rating System (CRS). Meeting the CRS criteria reduces the flood insurance premiums for the entire community. However, many communities do not have the technical staff to prepare and review the CRS criteria.

The initial review and setting up of the CRS is the most difficult and expensive part of the process. Aid to communities in this effort would benefit many policyholders at a small cost. Simplifying the CRS application process is another way to lower this barrier to entry for many small communities. Some of the qualifying criteria for CRS credit is extreme and impractical.

In some communities, there is a specific exclusion to the local zoning code for complying with the prevailing FEMA-NFIP flood mapping. This removes a tremendous

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cost impediment for homeowners. An older home that may need a zoning variance to be elevated could cost tens of thousands of dollars in fees and many months of time, just to go through a local zoning board. Incentivizing local governments to remove this impediment will reduce the cost of compliance.

Pre-disaster mitigation planning is being implemented in many communities on Long Island. Unfortunately, the process often stops in planning due to a lack of funds. The United States is in the midst of an infrastructure crisis and coastal infrastructure is the most vulnerable. There is presently little money at the local or State level to fully implement pre-disaster mitigation projects.

Restoring beaches and dunes, enhancing the flood capacity of wetlands and making highways, rails and ports more resilient will cost billions, but will save even more. This work needs federal leadership and cannot be done in isolation. Recognizing the mitigation work of federal, State and local agencies in the NFIP program (where resiliency projects generate large benefits) requires a strong local government presence.

For example, in communities that have a US Army Corps of Engineers (or other federal agency) flood risk reduction project, FEMA-NFIP should be part of the federal, State and local partnership. The benefit of the project may be reflected in the eventual FEMA NFIP mapping, but there is often little pre project communication between those agencies.

Impact of Current Flood Insurance Rates

The current flood insurance rate model is designed to bring flood insurance into balance with risk by gradually increasing premiums to the actuarial level. The effect of these premium increases is disproportionately impacting middle and lower income families that are struggling to meet the increased expenses in many household categories.

Many owners cannot afford either the increased insurance premium or the capital investment needed to elevate their homes. These owners will struggle with the increased premiums until they can no longer afford them and often be forced to sell. Small communities across Long Island will be changed as middle and lower income families are being costed out of flood insurance.

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The NFIP has devoted substantial resources to convince homeowners that elevating their homes will reduce their flood insurance premium. Unfortunately, the payback period is approximately 10-20 years. This is too long a wait and too high a cost for the low perceived risk to motivate the average homeowner. As a result, homeowners do not elevate their homes before experiencing flood damage.

FEMA has undertaken an Increased Cost of Compliance Coverage to address part of this issue. However, the \$30,000 maximum is insufficient to elevate a typical home on Long Island. Raising even a modest home to comply with NFIP flood standards on Long Island is \$100,000 to \$150,000. This costs does not include addressing other issues that may be related to non NFIP standards, such as the State building, electrical and plumbing codes or local zoning requirements. Total costs easily run to \$200,000.

FEMA also provides post disaster mitigation funds to elevate and flood proof damaged homes and businesses. In New York, the NY Rising program administered by the State with FEMA funds has been elevating Superstorm Sandy damaged homes. However the pace is slow and the cost is high. People can be out of their homes for extended periods of time while waiting for FEMA approval and eventual construction, thus incurring excessive temporary housing costs and severe social dislocations.

In another federal program, the US Army Corps of Engineers (Fire Island Inlet to Montauk Point) is proposing to raise over 4,500 homes on the south shore of Long Island that are located in the 10 year floodplain at a cost of approximately \$660 million (approximately \$146,666 per home. This addresses many of the most vulnerable homes, but clearly many other homes located in the floodplain need to be raised as well.

All of these efforts are working, but at too slow a pace and too costly a price. Some new thinking is required to reach owners that cannot afford the insurance or the elevation before the flood. Failure to do so will see more middle and lower income families leave as they are priced out of the area.

How to Incentivize Policy Holders

Simply stated, we must convert more pre-FIRM homes to NFIP compliant homes faster and policy holders are the key to the process.

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Unfortunately, the bulk of the effort (and the money) on mitigation is spent after the flood damage occurs, when it is most expensive. Both Hurricane Katrina and Superstorm Sandy have proven this point. Moving that expenditure to pre-storm is an extraordinary challenge. Speaking as a small business owner, it all about the money.

If we want many people to elevate and flood proof their homes before the flood it must be in their immediate financial interest. A twenty year investment horizon is a once in a lifetime event for most people. A break even of five to seven years is the most that many owners can afford.

Moreover, the financial stick of increased premiums without a commensurate financial carrot will not work. It is too much stick and no carrot. It is not reasonable to expect a consumer to invest up to \$200,000 for an annual payback of \$4,000 or \$5,000. Nor is it reasonable to expect a homeowner to pay \$20,000 to 40,000 annually for flood insurance. Right now, the taxpayer is paying the difference and it is in more expensive, post disaster dollars. Just moving that taxpayer expense to the pre-disaster dollars would save up to 50%.

Regardless of anything else, the financial incentive and payback period necessary to elevate and flood proof a home must align with the cost or homeowners will not make it happen.

Streamlining FEMA NFIP

The claims process at FEMA is burdensome. I am most familiar with the Public Assistance portion of that process having participated in over a dozen federally declared disasters. The introduction of paperless submittals have vastly improved the process in the last decade. FEMA should continue to make these improvements.

Another aspect of the burdensome claims process is the rotating personnel. I understand that FEMA employs reservist out of necessity. It is simply the only way they can assemble the personnel needed in the wake of a disaster. However, consistency of interpretation and seamless hand off from one claims professional to the next could and should be improved.

The map amendment process through eLOMA has greatly simplified the process of map amendments. The digital mapping program at FEMA has made the process of

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flood hazard identification much more user friendly and accessible. I have clients actually call me after having looked up their property online at the FEMA Map Service Center to discuss the level of hazard.

Summary

The NFIP plays a critical role in protecting the citizens of our nation. Making the NFIP more resilient means moving more pre-FIRM homes into NFIP compliant homes faster.

Raising rates alone will drive middle and lower income families from their homes. The goal of elevating homes can be accomplished if commensurate financial incentives are balanced with reasonably priced insurance.

It also means integrating existing and proposed flood risk mitigation projects at the federal level with robust State and local land use controls. FEMA should continue to streamline the claims and mapping delivery systems.

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Written Testimony of
Aram V. Terchunian, M.Sc.
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STATEMENT ON BEHALF OF
THE COUNCIL OF INSURANCE AGENTS AND BROKERS (CIAB),
THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA (IIABA),
NATIONAL ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS (NAIFA)
AND THE NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS (PIA)

BEFORE THE
FINANCIAL SERVICES COMMITTEE
HOUSING AND INSURANCE SUBCOMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ENTITLED: "FLOOD INSURANCE REFORM: A COMMUNITY PERSPECTIVE"

MARCH 16, 2017

Introduction

On behalf of CIAB, IIABA, NAIFA and PIA (collectively "Agent Trade Associations") we submit testimony for the above referenced hearing outlining the important role that insurance agents play in the distribution of flood insurance. The Agent Trade Associations collectively represent an expansive nationwide network of insurance agents and brokers, and their employees in every State and congressional district. Our members offer customers policies from a variety of insurance companies across all lines of insurance—including flood insurance offered through the National Flood Insurance Program (NFIP), as well as private flood insurance coverages.

Insurance agents across the country and the "boots on the ground" sales force for flood insurance. Agents serve as the first point of contact for a consumer to explain the necessity for flood insurance. The Agent Trade Associations support a reauthorization of the NFIP as well as the gradual development of the private market as a complement to the NFIP. While many of our members currently sell private flood insurance products, the private market needs adequate time to develop in order to provide acceptable and affordable flood insurance for property owners that need it across the country, especially in the area of residential flood risks where there are not yet as many private coverage options. Meanwhile, the NFIP insures more than five million property owners and is the largest flood insurer across the country. Tens of thousands of insurance agents work with the Write-Your-Own (WYO) program and the NFIP Direct program to assist policyholders in making educated choices about the purchase of NFIP policies for their homes and businesses.

The sale, servicing, and underwriting of NFIP policies is complicated, especially in the Special Flood Hazard Area (SFHA) where the product is required by law if the property owner has a mortgage. The remuneration that agents receive for the sale of NFIP policies reflects the unique and complex nature of the product. As such, the Agent Trade Associations oppose any reductions in the commission schedule used to compensate agents writing NFIP policies. Cutting agent compensation specifically will not reduce program costs for the NFIP or the WYO program. FEMA establishes the WYO compensation level; however, agent commissions are paid by the WYO companies from the compensation that the WYOs receive. Cutting or proscribing agent commissions legislatively would leave the overall program costs the same while inserting price controls into the WYO's business process and only serving to harm the private-

public partnership of the NFIP, and will limit the delivery mechanism for flood insurance, harming consumers.

The below testimony outlines information on the commissions insurance agents typically earn for NFIP insurance policies as well as private flood policies; and underscores the pivotal role that agents play in helping consumers make informed decisions about their insurance purchases. At the end of the testimony two graphical attachments are also included to help further explicate this. The first is entitled "*What Does an Insurance Agent Do to Assist Consumers in the Purchase of Flood Insurance for their Home or Business?*" and the second is entitled "*How are Insurance Agents Compensated for the Sale and Servicing of a Flood Insurance Policy for a Home or Business?*"

Role of the Insurance Agent in Selling Flood Insurance

Insurance agents generally serve as the initial point of contact for a consumer to explain the necessity for flood insurance. Agents are vital in ensuring that policyholders make educated choices about the purchase of flood insurance policies for their homes and businesses. Flood insurance can be one of the hardest products for an insurance agent to sell because homeowners have often been educated by the media, lenders, real estate agents, friends and neighbors to believe they are "not in a flood zone" and therefore do not need flood insurance. When in fact over twenty percent of floods occur outside the SFHA, and damage from such events is only increasing due to changes in weather patterns and land development. Furthermore, consumers in the SFHA often buy the product begrudgingly and do not understand the true need for it. When in fact flooding is the most common and costly natural disaster.

Despite the need for flood insurance, purchasing flood insurance can be a daunting and complex process, especially within the SFHA. Insurance agents and brokers, whether selling in the NFIP or via a private insurer help consumers estimate flood risk and insurance cost, and discuss several "what if" scenarios with potential policyholders. Insurance agents and brokers help to prepare quotes, ensure consumers understand the impact of different policy limits and deductibles, and work to explain different policy provisions in order to inform the consumer's purchase decision.

When flood insurance is legally required or otherwise required by a mortgagee for security on a loan, agents also work closely with lenders to provide evidence of coverage, and ensure that the property is properly covered pursuant to relevant legal and regulatory requirements. Lender information requests do not just occur when a policy is initially purchased on a new loan but also throughout the life of the loan.

Additionally, for the life of a flood insurance policy, agents help consumers annually review and adjust coverages to fit changing needs, and assist policyholders with claims when a claim occurs. Agents receive no additional compensation for assistance with claims related issues. For NFIP policies, agents must also monitor many unique issues related to policy renewals, such as legally required rate increases, frequent changes to the NFIP, mapping changes, statutory and regulatory changes, and underwriting changes.¹

Agent Compensation in the NFIP

The NFIP primarily relies on the private insurance market to administer flood insurance through the WYO program. The WYO program began in 1983 as a way to reach more property owners who needed flood insurance. WYO companies are reimbursed by the government for the expense of administering flood

¹ See, attachment entitled "*What Does an Insurance Agent Do to Assist Consumers in the Purchase of Flood Insurance for their Home or Business?*"

insurance policies; this is called the WYO expense allowance.² Currently, WYO companies receive approximately 31% of policyholder premiums before various federal fees and surcharges are added including the Reserve Fund Assessment, Probation Surcharge, HFIAA Surcharge, and Federal Policy Fee. These fees can sometimes account for between 25% and 50% of consumer policy cost, meaning commissions are only earned on 50% to 75% of the policy amount. From their reimbursement WYOs pay about half to agents and also pay vendors and state premium taxes, keeping the remainder after costs. The 31% ratio is derived from an average of various private industry property and casualty expense ratios, with consideration given to the complexity of the program. Agent commissions are not paid directly by the government but instead are paid by WYO companies from the expense allowance.

Compensation paid to agents for the sale of flood insurance policies through the WYO program varies. Of note, like the WYO reimbursement rate agent commissions are calculated on the premium amount before various fees and surcharges are applied. FEMA establishes overall compensation levels for WYO companies. WYO companies then negotiate compensation rates in private contractual agreements with independent insurance agencies, based on the company's business model.

Commissions may vary based on factors such as how experienced the agent or broker servicing the account is, regional variations in agent and broker compensation, whether or not the policy is a new policy or a renewal, and how much business the agent or broker produces for the WYO. This process ensures that WYO companies have the ability to choose the agent compensation structure that is most efficient and effective so they can contract with the best and most qualified agents, who are the most knowledgeable about the intricacies of the NFIP. Captive agent compensation also varies and is based on similar factors. Inserting price controls into this process will harm the private-public partnership of the NFIP, and will limit the delivery mechanism for flood insurance, limiting consumer choice.

In December 2016 GAO released a study in which the WYO companies that GAO reviewed reported commissions ranging from 15.2% to 20.7% with an average of 17.7% in 2014.³ IABA also conducted its own research in 2016 and 2017 and found that agent commissions range from 14% to 22% with the average commission being around 18%.⁴

For NFIP Direct business, commissions are computed for both new and renewal policies at a rate of 15% of the first \$2,000 of annualized premium and 5% on the excess of \$2,000. Like the WYO program, commissions are based only on premium, which is the total amount due less the Reserve Fund Assessment, Probation Surcharge, HFIAA Surcharge, and Federal Policy Fee.⁵ NFIP Direct business accounts for less than 20 percent of NFIP policies. In most circumstances insurance agents and brokers only place business with NFIP Direct when necessary, including certain repetitive loss properties that must be serviced through the direct program. This is due in large part to lower service levels provided to consumers and agents by the direct program.

The Agent Trades Associations maintain that considering the complex nature of underwriting and quoting NFIP policies, especially in the SFHA, the remuneration that agents receive for the sale of NFIP policies

² The WYO reimbursement rate is outlined in a contract between FEMA and all the insurance companies that participate in the WYO program. FEMA is currently working on a multiyear update of the NFIP's financial control plan and WYO contract in order to streamline and modernize oversight of the WYO program. The Agent Trade Associations support this effort.

³ See, "FEMA Needs to Address Data Quality and Consider Company Characteristics When Revising its Compensation Methodology," (December 2016), at page 25, table 4.

⁴ See, attachment entitled "How are Insurance Agents Compensated for the Sale and Servicing of a Flood Insurance Policy for a Home or Business?"

⁵ See, NFIP Flood Insurance Manual (April 2017).

reflects the unique nature of the product and is comparable to other lines of insurance. The Agent Trade Associations oppose any reductions in the commission schedule used to compensate agents writing NFIP policies through the WYO program or via the NFIP Direct program. Lowering the amounts that WYOs or the NFIP Direct program are permitted to compensate insurance agents will hurt competition, and will result in fewer flood insurance policies being written for consumers.

Private Flood Insurance Compensation

Because over 90 percent of NFIP policies are residential⁶ this section will focus on residential private flood insurance policies and the compensation earned for selling those policies. It is important to note when considering commission levels on private market products that the products generally require a much less time consuming and complex underwriting process and therefore less time is involved in the process. Furthermore, while premiums can sometimes be lower in the private market than the NFIP the commission rate for all private flood insurance is applied to the face value of the policy (i.e. what the consumer pays). Whereas the NFIP assesses various non-commissionable fees, meaning commissions are only earned on 50% to 75% of the policy face value.

There are essentially two types of admitted private flood insurance policies that our members currently sell in the residential market. The first is an endorsement to homeowners to cover flooding. In some states this endorsement is available at the same amount as the homeowners insurance in both the X zones and the SFHA. In other states, the endorsement is available in the X zone only and is a sublimit coverage that operates similar to sewage backup coverage on homeowners' policies.

Commissions earned on these products would be consummate with the underlying insurance product. Like the NFIP, commission for homeowners' insurance vary. There is also considerable regional variation in commissions for homeowners' insurance. Generally, commissions can vary from 10% to 26%, depending on several factors such as whether or not the policy is a new policy or a renewal, how experienced the agent or broker servicing the account is, and how much business the agent or broker produces for the insurance company.⁷

The second type of private flood insurance policy is offered by a small number of admitted companies. This policy is a standalone policy based on the NFIP (i.e. the basis for the policy form is the NFIP policy and it may or may not include coverage enhancements such as additional living expenses). Due to the nascent nature of the private flood insurance market there is not a considerable amount of public information available on agent commissions.

However, filings in Florida and Pennsylvania for admitted flood products that mirror the NFIP product provide some information and indicate that commissions are similar to NFIP commission through the WYO program. For example, in Pennsylvania Federal Insurance Company states in a product filing they based their commission rate for private flood on homeowners' commissions of 17-17.3%. In Florida a private flood insurance filing by the insurance company TypTap from 2015 (the most recent available), lists 21.5% as "commissions and brokerage" expenses for their expected loss ratio. According to the filing this amount is based on Managing General Agent (MGA) compensation.

⁶ See, "Report Providing an Assessment of the Current State of the Market for Natural Catastrophe Insurance in the United States," completed by the Federal Insurance Office as part of the Biggert-Waters Flood Insurance Reform Act of 2012 (September 2015) at page 35, figure 7.

⁷ See, for example disclosures available online from Travelers Insurance Company, which provides homeowners' insurance as well as many other products nationally, pays a range of commission types and amounts to insurance agents based on a variety of factors, https://www.travelers.com/about-us/spotlight/docs/pi_home_disclosure.pdf.

Some of our members also sell private flood insurance through the surplus lines market. Since product filings are not required for surplus lines, this information was obtained by asking agents who sell the product. Commission for retail agents ranged from 10% to 15%, in addition to MGA or wholesale agent compensation which can increase the total commission percentage paid by the insurer. However, of note these policies require substantially less underwriting questions (if any), and no elevation certificate, meaning these policies are less time consuming to service.

Conclusion

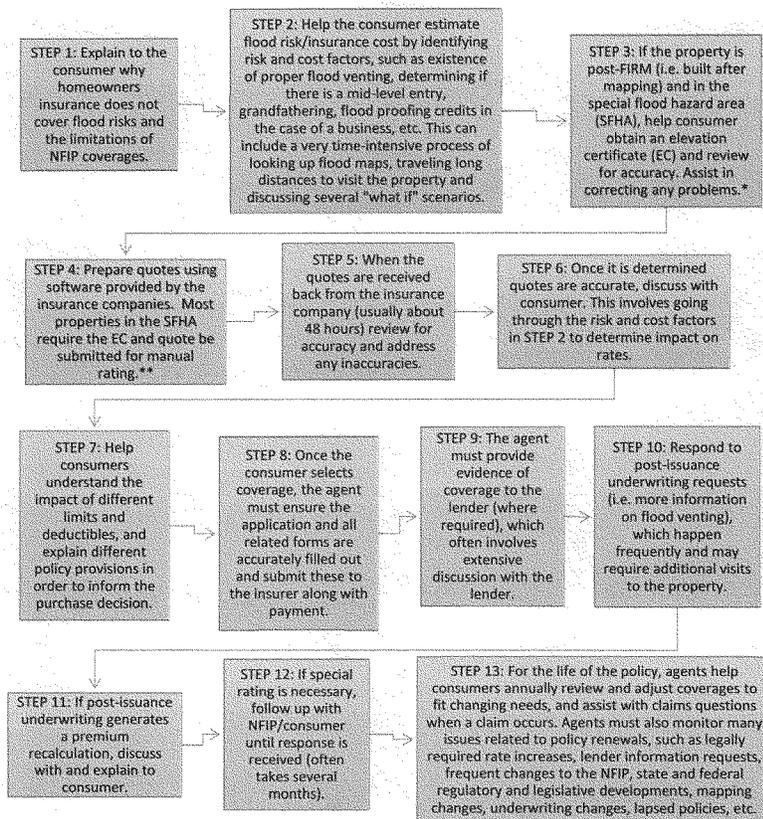
The Agent Trade Associations thank you for the opportunity to submit testimony for today's hearing, and for consideration of the information we have provided. Agents are vital in assisting policyholders to make educated choices about the purchase of NFIP policies for their homes and businesses. As such, the Agent Trade Associations oppose any reductions in the commission schedule used to compensate agents writing NFIP policies.

The remuneration that agents receive for the sale of NFIP policies reflects the unique nature of the product and the time commitment agents undertake. NFIP policies, procedures, and requirements are complex and agents are an integral part of the consumer experience when purchasing a flood insurance policy. Furthermore, as shown in the testimony, commissions earned in the WYO program are commensurate with other admitted private flood insurance products, as well as other property insurance. This is especially true when considering the complexity of the NFIP and unlike commissions earned in the private market, NFIP compensation is only assessed on a percentage of the policy cost not the full consumer cost.

Finally, reducing agent compensation specifically will not lower program costs for the NFIP or the WYO program. FEMA establishes the WYO compensation level; however, agent commissions are paid by the WYO companies from the compensation that the WYOs receive. Proscribing agent commissions legislatively would leave the overall program costs the same while inserting price controls into the WYO's business process and only serving to harm the private-public partnership of the NFIP, and will limit the delivery mechanism for flood insurance.



WHAT DOES AN INSURANCE AGENT DO TO ASSIST CONSUMERS IN THE PURCHASE OF FLOOD INSURANCE FOR THEIR HOME OR BUSINESS?



* Pre-FIRM properties (i.e. built before the flood maps) inside the SFHA do not require an EC and have slightly less extensive underwriting processes. However, explanations of mandatory rate increases until "full risk rates" (rate calculated with an EC) are reached as required under BW-12 and HFIAA must be provided.

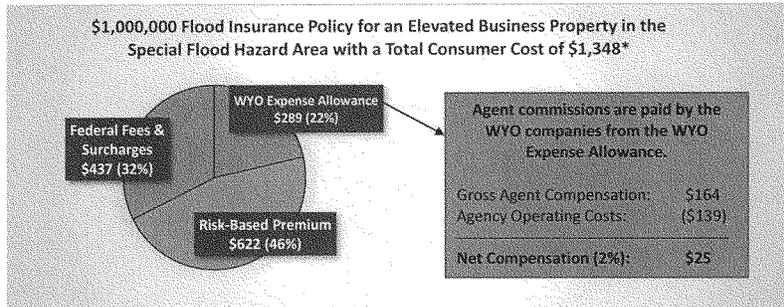
** Properties outside the SFHA require no underwriting and have a simpler process. However, they require extensive conversations with consumers, as they have often been educated by the media, lenders, real estate agents, friends and neighbors to believe they are "not in a flood zone" and therefore do not need flood insurance.



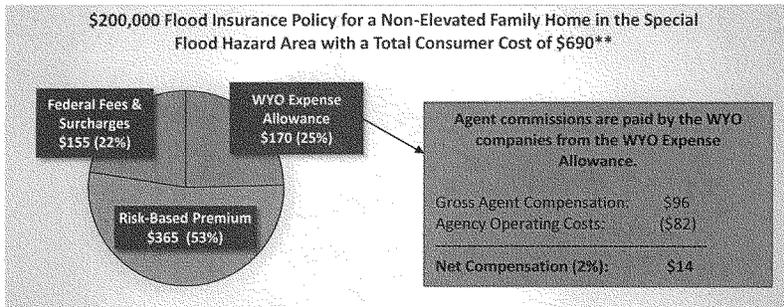
Independent Insurance Agents
& Brokers of America, Inc.

HOW ARE INSURANCE AGENTS COMPENSATED FOR THE SALE AND SERVICING OF A FLOOD INSURANCE POLICY FOR A HOME OR BUSINESS?

The National Flood Insurance Program (NFIP) relies on the private insurance market to provide flood insurance through the Write-Your-Own (WYO) program. WYO companies are reimbursed by the government for the expense of administering flood insurance policies; this is called the WYO expense allowance. Agent commissions are not paid directly by the government but instead are paid by WYO companies from the expense allowance. Below you will find examples of how much agents are compensated for the sale or renewal of a typical NFIP policy. All percentages in the chart are expressed as a percentage of the total consumer cost (i.e. total policy premium paid by the consumer).



* This chart is based on Example 8 from the April 2017 NFIP Flood Insurance Manual, Rating Section (\$500,000 building coverage/\$500,000 contents coverage/\$5,000 deductibles). The WYO expense allowance, which includes agent commissions, is not based on the total consumer cost. It is calculated as 31.8% of net premium before federal fees or surcharges are applied. Net premium here is \$911 (i.e. \$622+\$289). When the WYO expense allowance is expressed as a percentage of total consumer cost in this example it is 22%. Agent commissions may vary. An 18% commission of the \$911 net premium was used here. When agent commission is expressed as a percentage of total consumer cost in this example it is 12%. Agency operating costs are based on industry averages for P&C agencies of 85%, meaning the net compensation from a typical flood insurance policy before taxes is generally 2% or less of total consumer cost. Federal fees and surcharges in this case include: \$250 HFIAA surcharge; \$50 federal policy fee; and \$137 NFIP reserve fund assessment.



** This chart is based on Example 7 from the April 2017 NFIP Flood Insurance Manual, Rating Section (\$150,000 building coverage/\$50,000 contents coverage/\$1,500 deductibles). The WYO expense allowance, which includes agent commissions, is not based on the total consumer cost. It is calculated as 31.8% of net premium before any federal fees or surcharges are applied. Net premium here is \$535 (i.e. \$365+\$170). When the WYO expense allowance is expressed as a percentage of total consumer cost it is 25%. Agent commissions may vary. An 18% commission of the \$535 net premium was used here. When agent commission is expressed as a percentage of total consumer cost in this example it is 14%. Agency operating costs are based on industry averages for P&C agencies of 85%, meaning the net compensation that agents earn from a typical flood insurance policy before taxes is generally 2% or less of total consumer cost. Federal fees and surcharges in this case include: \$25 HFIAA surcharge; \$50 federal policy fee; and \$80 NFIP reserve fund assessment.

Consumer  Mortgage Coalition

Testimony Submitted for the Hearing Record

U.S. House of Representatives House Financial Services

Subcommittee on Housing and Insurance Hearing:

“Flood Insurance Reform: A Community Perspective”

March 16, 2017

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The Consumer Mortgage Coalition (“CMC”), a mortgage industry trade association, is very pleased to submit comments for the Record for today’s hearing. The CMC is particularly concerned that any policies that are developed do not result, inadvertently, in community blight.

The CMC submitted lengthy testimony for the Record at the Committee’s hearing on March 9, 2017 that provided the Committee with a detailed overview of the NFIP and the policy issues that need to be considered during the reauthorization of the NFIP.

For purposes of today’s testimony, we would like to focus on the legislation that would amend the Biggert-Waters Act to promote private flood insurance, which we believe can succeed if it is designed to prevent neighborhood blight. Unfortunately, H.R. 2901, as passed by the U.S. House of Representatives and that we understand has been reintroduced this Congress, would increase neighborhood blight and negatively impact the availability of credit in disaster-prone areas. For that reason, we cannot support the legislation as currently drafted, even though we support private flood insurance.

The legislation would also not meet its goal of minimizing taxpayer exposure to flood losses. A more comprehensive approach is needed.

I. How the Legislation Would Cause Neighborhood Blight

While not intended, unfortunately, this legislation would negatively impact disaster-prone communities in the following ways.

- The legislation would retain language from the Biggert-Waters Act that requires several federal agencies to accept (“shall accept”) private flood insurance. At the same time, it would amend the Biggert-Waters definition of private flood insurance to repeal language that limits the definition to policies that provide adequate protection. The amended definition, in combination with the “shall accept” language, would require agencies to accept inadequate private insurance policies.
- The legislation would deprive the Federal Emergency Management Agency (“FEMA”) of funding for flood mapping and flood mediation that FEMA today obtains through its sale of NFIP insurance policies. FEMA uses this funding, in part, for flood mapping, on which private insurers rely. This funding also pays for flood remediation measures after a flood. Unless Congress provides alternative funding for mapping and flood mediation, widespread private flood

insurance coverage would deprive FEMA of the funding on which it relies, thereby increasing damages after a flood.

- The legislation does not address the fact that widespread availability of lower-cost NFIP flood insurance today provides a strong incentive for local communities to participate in the NFIP. That participation requires communities to adopt and enforce flood loss mitigation and remediation measures. While costly, these measures are critical to reducing the likelihood and severity of flood damage nationwide. Reducing this incentive to participate in the NFIP would result in less flood mitigation, that is, in more neighborhood blight after a flood. Unless Congress provides alternative incentives for NFIP participation, the spread of private flood insurance would lead to neighborhood blight in this way as well.
- The legislation does not address the possibility that private insurers might elect not to insure riskier properties, leaving FEMA to insure the riskiest properties and to incur higher flood losses.

A. The Legislation Would Retain the Biggert-Waters “Shall Accept” Requirement but Not its Private Flood Insurance Definition

The Biggert-Waters Act promoted private flood insurance by providing that lenders, Fannie Mae and Freddie Mac (the “GSEs”), and federal agency lenders “shall accept” private flood insurance for mortgage loans that require flood insurance. At the same time, Biggert-Waters defined the term “private flood insurance” to include private policies that are quite similar to NFIP policies, including that private flood insurance must provide coverage “as least as broad as” NFIP coverage. NFIP policies include a maximum deductible, for example, so today a private insurer must include the same maximum deductible to qualify as “private flood insurance” that meets the Biggert-Waters definition and which lenders and federal agencies “shall accept[.]”

Under the new legislation, the GSEs and federal agency lenders would still be subject to the “shall accept” requirement, but would not be permitted to rely on the Biggert-Waters definition of private flood insurance. Suppose, for example, a homeowner has a \$150,000 mortgage loan, and a private insurer offers a policy with a \$100,000 deductible, much higher than the NFIP permits. A GSE or federal agency lender would be required to accept (“shall accept”) the private policy. In the event of total property destruction in a flood, the insurer would pay \$50,000, which would be insufficient to restore the property. If there were several such occurrences in one neighborhood after a flood, the entire neighborhood would be blighted.

Another aspect of the Biggert-Waters definition of private flood insurance that the legislation would repeal is the requirement that the private policy contain a mortgagee interest clause. This is a clause in the insurance policy that requires the mortgage investor or servicer to be named as an additional loss payee. In the event of a flood, this

clause provides the mortgage servicer, consistent with the mortgage contract, to hold the funds and disburse them as repair work progresses. Absent this clause, and as would be permitted by the pending legislation, the insurer would be required to pay the funds to the homeowner directly and in full. In the example of a \$50,000 claim on a \$150,000 loss, the homeowner would receive \$50,000 in cash but might not have the needed financial resources to restore the property. The homeowner would have a very strong incentive to keep the cash, and abandon both the property and the mortgage loan, particularly if the homeowner did not have much equity in the property. The result would be neighborhood blight.

The legislation would also weaken language that today permits the GSEs to set insurance standards “relating to the financial solvency, strength, or claims-paying ability of private insurance companies” from which the GSEs “shall accept” coverage. The legislation would repeal the GSEs’ ability to set standards for insurers’ financial solvency, and it would repeal their ability to set standards for insurers’ claims-paying ability. *See* the amendments to the legislation would make to 42 U.S.C. § 4012a(b)(7) included below, showing how the legislation would amend the current statute. That is, the legislation would require the GSEs to accept insurance from private insurers, such as but not limited to, surplus lines insurers that do not contribute to state guarantee funds. In the event of a disaster, there might not be funds available to cover losses, even if homeowners had paid their premiums in full. This is another way in which the legislation would cause neighborhood blight.

B. The Legislation Would Not Replace Funding FEMA Derives From NFIP Policies

Sales of NFIP insurance policies fund more than the insurance coverage alone. The premiums and fees also fund FEMA mapping and flood mitigation practices. Private insurance policies do not. If private flood insurance were widely available, FEMA would need a replacement source of revenue, but the legislation does not address this need.

It is also important to note that private insurers use FEMA’s flood maps but do not pay for them.

Today, FEMA has mapped only about one-third of the country. Without robust mapping, updated as flood risks change, land is developed in areas of unknown flood risks. This is short-sighted flood policy. Congress has for the past century repeatedly called for additional flood mapping. Legislation that would deprive FEMA of mapping resources would increase flood risks and flood damage.

In addition to flood mapping, FEMA collects fees on the sale of NFIP flood insurance policies to fund flood mitigation practices. These include sensible practices such as

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rebuilding after a flood in a way to reduce the risk of repetitive flood damage to the same property.

It is true that some homeowners could obtain flood insurance that might be less expensive if they did not need to pay for flood mapping and for flood mitigation. However, the need for mapping and mitigation remain whether insurance is private or federal. Absent funding from NFIP insurance policies, another source of funding would be necessary.

C. The Legislation Would Interfere with Incentives on Which the NFIP Is Based

Community participation in the NFIP is voluntary. Congress does not mandate that communities adopt flood mitigation ordinances, nor does Congress dictate that communities enforce their ordinances. These are state law matters that Congress leaves to the states.

Rather, Congress bases the NFIP on an incentive-based policy approach. One of the incentives for communities to undertake the costs and disruptions of adopting and enforcing sensible flood plain management practices is that doing so enables residents to purchase NFIP flood insurance policies, often at lower cost than actuarial private policies. This incentive undergirds the NFIP, yet the legislation would not address it.

The legislation would enable private insurers to sell flood insurance that does not provide adequate coverage, and would prohibit federal agencies from rejecting that inadequate coverage. If a significant share of homeowners in a community were to purchase private flood insurance, the community would lose its incentive to participate in the NFIP. The community would be able to save costs by abandoning its flood plain management practices without losing flood insurance coverage. This would increase damages when a flood occurs, and result in neighborhood blight.

II. The Legislation Would Increase Taxpayer Exposure to Flood Losses

A goal of the legislation is to reduce taxpayer exposure to flood losses. However, in addition to increasing neighborhood blight, the legislation would inadvertently increase taxpayer exposure to flood losses:

- The legislation would enable homeowners to select less expensive – though inadequate – private flood insurance coverage.
- Private insurers might not insure the riskier properties, but FEMA would.
- Federal agencies would be prohibited from protecting themselves against flood losses, unless the agencies decide to curtail the availability of credit in disaster-prone areas.

The legislation would enable homeowners to select less expensive private flood insurance. The timing of this legislation is significant because it would coincide with NFIP premium increases. In 2014, Congress enacted phased-in NFIP premium increases to bring those premiums closer to actuarial rates. Those increases will become effective in the next two years, and some will be drastic. As those increases are phased in, the cost of private flood insurance, where available, will become increasingly attractive relative to NFIP premiums. Many homeowners will select less expensive private policies even though the coverage is inadequate.

At the same time, there is no requirement that private insurers offer coverage for all properties in a special flood hazard area, as FEMA does. Private insurers would be able to insure the properties with the lowest risk, leaving the NFIP to insure the higher-risk properties. This would increase FEMA flood losses relative to its premium revenue.

Also at the same time, the legislation would prohibit the GSEs and federal agency lenders from requiring adequate insurance coverage. Their risks and losses would thereby increase. Mortgage investors will curtail mortgage credit if they cannot protect against flood losses. The result would be reduced mortgage lending, increased taxpayer losses, or a combination of the two.

The legislation as drafted would not achieve its goal of reducing taxpayer exposure to flood losses.

III. Protections are Equally Necessary for Flood Insurance and for Homeowner’s Insurance

Mortgage investors and servicers need to be able to protect properties throughout the life of mortgage loans. For both flood insurance and for homeowner’s insurance, servicers need to ensure that: appropriate perils are insured; deductibles, exclusions, and conditions are reasonable; the servicer is an additional loss payee on each insurance policy; and that the insurer will be able to pay any claims. Mortgage contracts require homeowners to maintain sufficient insurance coverage, and permit servicers to ensure continuous and appropriate coverage. These protections are equally important for flood insurance and for other homeowner’s insurance.

Despite these equal needs, the legislation would remove protections for flood insurance, but not for other insurance, for the GSEs and federal agency lenders. For these loans, the legislation would *repeal* servicers’ ability to ensure that renewal flood insurance policies are adequate. It would *repeal* the GSEs’ ability to require that insurers are solvent and able to pay claims. It would *repeal* statutory language that requires private flood


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insurance to have reasonable deductibles and coverage. The result would be inadequate flood insurance coverage.

Adequate coverage is equally important for flood insurance and for homeowners insurance, yet the legislation would repeal protections for flood insurance that would remain available for homeowner’s insurance.

This will leave properties adequately insured against fire, but not against floods. If mortgage investors are unable to protect the collateral property, they will reduce the availability of mortgage credit, and of lending for refinances, in special flood hazard areas.

IV. Private Flood Insurance Needs to Be Considered As One Part of Federal Flood Policies

Reducing taxpayer exposure to flood losses through increased private insurance is a worthy goal. It will require considering all aspects of the NFIP, including not just flood insurance, but flood mapping and flood mitigation and remediation. The legislation would affect flood insurance alone, and would thereby interfere with other important aspects of federal flood policies. Private flood insurance and reasonable protections do, and should continue to, work hand-in-hand.

As Congress deliberates flood insurance reauthorization, we urge a full consideration of all related policy issues, and to prevent unintentionally causing neighborhood blight.

V. The Legislation Should Promote Important Flood Policy Objectives

We support legislation that would promote the following flood policy objectives:

- Property owners should have flood insurance options, including the option of purchasing private flood insurance, consistent with safety and soundness.
- Federal and local flood policies should be to prevent and mitigate neighborhood blight.
- Flood hazard areas should be mapped as expeditiously as possible, and maps should be updated as needed, and newer mapping technologies should be used. If other agencies in the government have already mapped the country using newer mapping technologies, those agencies’ work should be shared with FEMA, in order to avoid paying twice for the same service.
- Mortgage investors, lenders, and servicers should be permitted to require flood insurance policies to be sufficient, including: coverage of appropriate perils; reasonable deductibles, exclusions, and conditions; including the lender or

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servicer as an additional loss payee; and the ability to reject insurers that lack sufficient solvency or claims-paying ability.

- Floodplain management practices should remain in place, whether flood insurance is federal or private.
- FEMA should have adequate funding to carry out its functions.

These policies can be consistent with expanded private flood insurance. It will be important for Congress to carefully consider the varied and intertwined aspects of federal flood policies to best support flood prevention, mitigation, remediation, and insurance simultaneously.

Mortgage investors and guarantors, including the GSEs, need to determine how to protect their collateral by determining the appropriate insurance protection. Without the ability to protect the collateral, the mortgage credit might be constrained in disaster-prone areas.

Below is a redlined copy of the existing statutory language as compared to the language in H.R. 2901, the bill that passed the U.S. House of Representatives in 2016.

We look forward to working with the Committee on these important, but difficult, issues.

Thank you.

For further information, please contact:

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Consumer Mortgage Coalition
(202) 617-2101


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**H.R. 2901, Flood Insurance Market Parity and Modernization Act
Amendments to Current Law**

(a) AMOUNT AND TERM OF COVERAGE

After the expiration of sixty days following ~~December 31, 1973~~ the date of enactment of this Act, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Administrator as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance:

~~in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less;~~

Provided, That the amount of flood insurance

- (1) in the case of Federal flood insurance, is at least equal to the development or project cost of the building, mobile home, or personal property (less estimated land cost), the outstanding principal balance of the loan, or the maximum limit of Federal flood insurance coverage made available with respect to the particular type of property, whichever is less; or
- (2) in the case of private flood insurance, is at least equal to the development or project cost of the building, mobile home, or personal property (less estimated land cost), the outstanding principal balance of the loan, or the maximum limit of Federal flood insurance coverage made available with respect to the particular type of property, whichever is less:

Provided further, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.

(b) REQUIREMENT FOR MORTGAGE LOANS

(1) REGULATED LENDING INSTITUTIONS

Each Federal entity for lending regulation [FCA, FDIC, FRB, NCUA, OCC], (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974) shall by regulation direct regulated lending institutions–

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~~(A)~~ not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance

Provided, That the amount of flood insurance

- (A) in the case of Federal flood insurance, is at least equal to the outstanding principal balance of the loan or the maximum limit of Federal flood insurance coverage made available with respect to the particular type of property, whichever is less; or
- (B) in the case of private flood insurance, is at least equal to the outstanding principal balance of the loan or the maximum limit of Federal flood insurance coverage made available with respect to the particular type of property, whichever is less.

~~in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less; and~~

~~(B) to accept private flood insurance as satisfaction of the flood insurance coverage requirement under subparagraph (A) if the coverage provided by such private flood insurance meets the requirements for coverage under such subparagraph.~~

(2) FEDERAL AGENCY LENDERS

(A) IN GENERAL. A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in accordance with paragraph (1)(A). Each Federal agency lender may issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issues under paragraph (1).

(B) REQUIREMENT TO ACCEPT FLOOD INSURANCE. Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence subparagraph (A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence that subparagraph.

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~~Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1)(A).~~

(3) GOVERNMENT-SPONSORED ENTERPRISES FOR HOUSING

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is--

- (A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Administrator as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and
- (B) purchased or guaranteed by such entity, the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such that paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance, provided that such requirements shall not affect or conflict with any State law, regulation, or procedure concerning the regulation of the business of insurance.

(4) APPLICABILITY.—

- (A) **EXISTING COVERAGE.**—Except as provided in subparagraph (B), paragraph (1) shall apply on ~~September 23, 1994~~ the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.
- (B) **NEW COVERAGE.**—Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on ~~September 23, 1994~~ the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.
- (C) **CONTINUED EFFECT OF REGULATIONS.**—Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect


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immediately before ~~September 23, 1994~~ the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of ~~Public Law 103-325~~ such Act take effect.

(5) RULE OF CONSTRUCTION

Except as otherwise specified, any reference to flood insurance in this section shall be considered to include Federal flood insurance and private flood insurance. Nothing in this subsection shall be construed to supersede or limit the authority of a Federal entity for lending regulation, the Federal Housing Finance Agency, a Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation to establish requirements relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the entity or agency will accept private flood insurance, provided that such requirements shall not affect or conflict with any state law, regulation, or procedure concerning the regulation of the business of insurance.

* * *

(7) PRIVATE FLOOD INSURANCE DEFINED DEFINITIONS

In this subsection:

- (A) FLOOD INSURANCE.—The term “flood insurance” means—
 - (i) Federal flood insurance; and
 - (ii) Private flood insurance.
- (B) FEDERAL FLOOD INSURANCE.—the term ‘Federal flood insurance’ means an insurance policy made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).
- ~~(C)~~ PRIVATE FLOOD INSURANCE.—The term ‘private flood insurance’ means an insurance policy that—
 - ~~(A)~~ (i) is issued by an insurance company that is—
 - (i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or
 - (I) eligible as a nonadmitted insurer to provide insurance in the home State of the insured, in accordance with sections 521 through 527 of the [Dodd-Frank Act];
 - (ii) is issued by an insurance company that is not otherwise disapproved as a surplus lines insurer by the insurance regulator of the State in which the property to be insured is located; and
 - (iii) provides flood insurance coverage that complies with the laws and regulations of that State.

(D) STATE.—The term ‘state’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

~~(ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;~~

~~(B) provides flood insurance coverage which is at least as broad as the coverage provided under a standard flood insurance policy under the national flood insurance program, including when considering deductibles, exclusions, and conditions offered by the insurer;~~

~~(C) includes-~~

~~(i) a requirement for the insurer to give 45 days’ written notice of cancellation or non-renewal of flood insurance coverage to-~~

~~(I) the insured; and~~

~~(II) the regulated lending institution or Federal agency lender;~~

~~(ii) information about the availability of flood insurance coverage under the national flood insurance program;~~

~~(iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and~~

~~(iv) a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and~~

~~(D) contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the national flood insurance program.~~

Adds to NFIA § 1308:

(n) EFFECT OF PRIVATE FLOOD INSURANCE COVERAGE ON CONTINUOUS COVERAGE REQUIREMENTS.—For purposes of applying any statutory, regulatory, or administrative continuous coverage requirement, including under section 1307(g)(1), the Administrator shall consider any period during which a property was continuously covered by private flood insurance (as defined in section 102(b)(7) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(7)) [the definition this bill would amend]) to be a period of continuous coverage.

NAMIC[®]

NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

March 15, 2017

The Honorable Mike Crapo
Chairman
Senate Banking Committee
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Senate Banking Committee
Washington, DC 20510

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
Washington, DC 20515

Dear Senators and Representatives:

As your committees work to reauthorize the National Flood Insurance Program (NFIP), NAMIC would like to share its views on the necessary steps to properly reform the program. The NFIP remains an important program because flood risk remains very difficult to insure as its unconventional nature defies the conditions private markets typically require for operation. However, in its current form it remains on a fiscally unsustainable path. There are four fundamental areas that must be addressed to truly fix the critical problems plaguing the NFIP.

NAMIC shares the goal of a program that ensures affordable flood insurance coverage is available, without the need for taxpayer-funded bailouts following major storms. Achieving this will require a move toward actuarially sound rates that reflect the risk of flooding for a given property, along with a mechanism to address affordability for those in need of assistance. Further, Congress should take steps to foster private-sector participation in the flood insurance market and make a serious investment in mitigation efforts to address repetitive loss properties and reduce the long-term losses to the program.

Actuarially Sound Rates

Inadequate rates that do not reflect the actual costs of living in a high-risk flood zone is the source of many of the NFIP's problems. Inadequate rates fail to reflect the true cost of providing coverage and the actual risks of living in a high-risk flood zone. This has the effect of encouraging poor land use and development in high-risk areas, thereby increasing the total potential losses that will be incurred in the event of a flood. During the almost 50 years that the NFIP has been in place, there has been a large population increase in flood-prone coastal states, which now account for a very large portion of the NFIP portfolio.

The NFIP must begin charging risk-based rates if it is to have any chance of being a solvent program. Moreover, the implementation of risk-based NFIP rates is a prerequisite for private insurers to be able to offer private-sector flood policies.

Increase Private-Sector Involvement

The largest impediment to increasing private-sector involvement is without a doubt the subsidized rates of the NFIP. Since private-sector insurance companies must charge risk-based rates to remain viable, they cannot compete with the subsidized rates of the NFIP. In fact, one of the many challenges to encouraging homeowners to take steps to mitigate flood losses is that hidden NFIP subsidies have led them to believe their risk of flooding is far less than it is. For any effort to increase private-sector participation in the flood insurance marketplace to be successful, it must address the fact that, unless the subsidy issue is addressed, companies will be asked to sell a similar product at, in many cases, a much higher price.

While subsidized rates are the greatest impediment to the private sector, there are several other issues also stifling the private-sector flood insurance market. Private insurers are prohibited from accessing FEMA's historical loss data that is essential for any insurer to begin to assess flood insurance risk. Additionally, private insurers participating in FEMA's Write Your Own program are prohibited from writing flood insurance policies outside the program. This restriction prevents the companies with the most experience in the flood insurance market, and those most likely to increase their involvement, from operating in the private flood insurance market.

Additionally, clarification is needed to ensure that mortgage lenders will accept private flood policies to meet mandatory purchase requirement guidelines of the NFIP. While the Biggert-Waters Flood Insurance Reform Act of 2012 mandated lending institutions to accept private-sector flood insurance, lending institutions still maintained they could not determine what an acceptable private-sector policy was. Any NFIP reauthorization must address these issues to increase private-sector involvement in the flood insurance market.

Address Affordability

Affordability is a critical part of flood insurance reform. While NAMIC believes the program must move toward actuarial rates, such a move could create affordability issues for some homeowners. To reduce potential issues, NAMIC believes rate increases should be phased-in over a number of years to prevent an instant and undue hardship for homeowners currently paying subsidized rates. NAMIC recognizes that there will be some who will need assistance because even rate increases phased-in over time could prove too costly, and NAMIC supports establishing a targeted, need-based program to assist homeowners of modest means facing affordability issues. However, any subsidies that the government believes are necessary must be fully transparent. Subsidies cannot continue to be hidden within the insurance mechanism, and homeowners should be fully aware of the real risks of where they live.

Increased Mitigation Efforts

Mitigation efforts are very important to improving the solvency of the NFIP. Mitigation activities would protect homeowners' property and possessions, as well as reduce the costs of claims associated with the NFIP. Mitigation measures, such as elevating structures, have been proven to protect properties from damage caused by flooding, and they have the potential to save \$4 in recovery costs for every \$1 of investment. However, the upfront costs of such measures may be beyond the means of some homeowners, and Congress should consider creating a program that would make mitigation grants and loans available to property owners for whom investing in mitigation would be truly unaffordable.

Additionally, any reform legislation should address the issue of repetitive loss properties. NAMIC believes an increase to FEMA's repetitive loss buyout authority would help end the cycle of rebuilding and repairing properties that continuously suffer severe flood damage. In some cases, the most efficient way of dealing with these properties is to simply buy out the homeowner, allowing them to relocate to a safer area.

Conclusion

NFIP reauthorization is extremely important to homeowners, businesses, and many sectors of our economy, but reauthorization without meaningful reforms will continue to lead the NFIP down the road of taxpayer-funded bailouts. As your committees work to reform and reauthorize the program, NAMIC strongly encourages you to include these measures in any legislation to end the cycle of loss and rebuilding that has left many Americans still vulnerable to flooding, costing the taxpayers billions of dollars. If my staff or I can be of assistance, please don't hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Jimi Grande". The signature is written in a cursive, flowing style.

Jimi Grande
Senior Vice President -- Government Affairs



**Property Casualty Insurers
Association of America**
Advocacy. Leadership. Results.

**STATEMENT FOR THE RECORD
ON BEHALF OF THE
PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA**

“FLOOD INSURANCE REFORM: FEMA’S PERSPECTIVE”

**THE HOUSE FINANCIAL SERVICES HOUSING AND INSURANCE SUBCOMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES**

March 9, 2017

Thank you, Mr. Chairman, Ranking Member and Members of the Subcommittee for the opportunity to provide a statement on “Flood Insurance Reform: FEMA’s Perspective”. The Property Casualty Insurers Association of America (PCI) is composed of nearly 1,000 member companies, representing the broadest cross section of insurers of any national trade association. Our members write more than \$202 billion in annual premium and 35 percent of the nation’s home, auto and business insurance, reflecting the diversity and strength of the U.S. and global insurance markets. PCI members include two-thirds of the “Write-Your-Own” (WYO) insurers that partner with the Federal Emergency Management Agency (FEMA) to administer the National Flood Insurance Program (NFIP).

PCI appreciates the subcommittee’s continued interest in the NFIP, and we are pleased that you are holding this hearing. While the program has undergone numerous changes over the past several years, PCI and our members stand ready to work with Congress on additional improvements to the program while providing new opportunities for the private sector to better serve consumers. This statement provides a broad overview of the evolution of the program, private sector involvement in providing flood insurance coverage and some views on flood insurance reform ahead of the program’s September 30, 2017.

PCI strongly supports reauthorization of the NFIP, and we adopted a number of important flood insurance reform principles that our Board and our members believe will improve the program, provide more choices for consumers and increase opportunities for private insurer involvement. Reauthorization and reforms to the program should include:

- A long enough extension to provide stability in the marketplace for both consumers and the companies entering, servicing, or competing with the program;
- Increased lender acceptance of private flood policies similar to bi-partisan, bi-cameral legislation that unanimously passed the House last year;
- Elimination of the WYO non-compete clause;
- Insurer access to NFIP underwriting data and publication of updated NFIP rate reviews;
- Language to encourage further reinsurance purchases; and
- Public service education on the necessity and benefits of flood insurance.

Evolution of Flood Insurance and the Private and Public Sector Roles

Flood insurance was provided in the United States by the private sector in the late 1800’s and early 1900’s. After catastrophic floods in 1927 and 1928, private flood insurance became less available. Flood losses were borne primarily by consumers and, over time, increasingly by the federal government in the form of disaster relief. President Truman in the 1950’s proposed a flood program based on private insurance with federal reinsurance, with mandatory purchasing required for homeowners with federally insured mortgages. The program was enacted but never funded or implemented. Critics at the time were concerned about adverse selection with most homeowners unwilling to voluntarily pay risk-based rates, a high concentration of risks, and inadequate land-use planning and mitigation efforts. In 1966, President Johnson raised with Congress four possibilities for providing flood insurance – purely private sector underwriting, private underwriting with government backing, a purely government program, or a government program run with private

assistance. The Administration ultimately recommended a public-private partnership for offering flood insurance, although requiring homeowners to bear their full risk costs.

In 1968, Congress created the NFIP that provided for a public-private partnership with communities agreeing to land-use restrictions in order to be eligible to purchase flood insurance from a risk pool (the National Flood Insurers Association) run by the private sector with oversight by the Federal Insurance Administration (FIA), then part of the Department of Housing and Urban Development (HUD). The federal government made loans to the private pool to pay claims, repaid with premiums over time, as well as providing reinsurance for catastrophic flood losses (lowering the premiums by eliminating the catastrophic risk costs). An explicit subsidy was provided for existing structures determined to be in a special flood hazard area with the expectation that those structures would disappear over time after severe weather events.

In 1977, disagreements between the private sector and the government over the authority and the financial control of the program led to the FIA exercising its authority under an existing section (Part B) of the 1968 legislation that allowed for an all-federal program in which the federal government bears all of the risk while making use of insurance industry resources. This also led to a period of tension between the industry and NFIP. In 1979, President Carter created the Federal Emergency Management Agency (FEMA) and the NFIP, along with several other disaster-related agencies were brought into that Agency.

From 1977 through 1983, property owners purchased flood insurance through an agent that in turn dealt directly with the federal government. However, during these early years, there was extremely limited participation in the NFIP, despite a congressionally imposed requirement in 1973 that all properties in a flood zone with federally backed or regulated mortgages purchase flood insurance. On its own, the federal government lacked adequate marketing and distribution channels as well as sufficient claims handling and payment capacity.

In 1983, the government turned again to the private sector to help market, service and settle claims for the program. The "Write-Your-Own" (WYO) program was created to use the existing private insurance infrastructure of insurance agents, companies and claims adjusters to help increase market participation and settle claims, while the risk of flood loss was retained by the government to keep premiums low. Participation in the flood program ultimately soared, climaxing at a post-Katrina high of 5.7 million NFIP policyholders.

How the NFIP and Write Your Own (WYO) Claims Process Works

There are now just 70 companies, of the more than 1300 active home, auto and business insurers in the U.S. that have partnered with the federal government to help administer the NFIP program as Write Your Own (WYO) insurers. WYO's act as a fiduciary for the federal government and taxpayers to market flood insurance and settle NFIP claims. In return for their marketing, claims adjustment, legal fees and other administrative costs, NFIP pays WYO's a servicing fee as well as additional fees based on the amounts and volume of settled claims. Also, FEMA writes approximately 12-14 percent of flood insurance policies through its Direct Program, although even

the direct program relies largely on outsourced claims adjusting and processing resources as well as private sector agents.

Decisions on federal flood insurance claims payments are made by claims adjusters. When policyholders experience a flood loss, they contact their insurance agent or WYO insurer. The insurer then assigns a flood claims adjuster, who may be an employee of the WYO, a contractor with a third-party vendor or an independent contractor. The flood claims adjuster determines the amount payable on a claim based on very specific guidelines and rules established by the NFIP. Flood claims adjusters and the independent contracting firms they represent are generally compensated in proportion to the amount of the loss paid. The compensation formulas are set by the NFIP and periodically updated.

WYO insurers can be penalized for either underpayments or overpayments, and WYOs are audited regularly by the federal government under the Improper Payments Elimination and Recovery Act (IPERA) to ensure that they follow federal requirements.

Federal compensation and settlement guidelines are periodically adjusted by Congress and the NFIP. For example, following Hurricane Katrina, the Government Accountability Office (GAO) raised concerns that the existing compensation structure could result in WYOs being overcompensated for claims settlement, particularly following a catastrophic event. As a result, the claims compensation formula was refined in 2009 by reducing the portion tied to the claim value and basing a portion of the payment on the WYO insurer's NFIP premium volume. There also are specific processes in place for dissatisfied policyholders to appeal claims decisions to the NFIP. The existing FEMA appeals process was put in place as a result of the enactment of the Flood Insurance Reform Act of 2004.

Recent Challenges in the WYO Program

Administering and marketing the NFIP is very complex and expensive, particularly with numerous recent statutory changes to the program (many retroactive). The number of private insurers participating in the WYO program has declined significantly in recent years, with several major insurers exiting the program. Most WYOs sell and administer a small number of NFIP policies, largely as an extra service to their policyholders. The last decade of turmoil in the program has further increased costs and reputational concerns, weighing heavily on insurers' ability to continue offering access to the NFIP as a service for their policyholders.

Unfortunately, as WYO private participation in the program has declined and many of the recent legislative changes have been implemented, the number of households and businesses in the program has also dropped significantly. After nine years (2006-2013) of having about 5.6 million policies in force, the NFIP's number of policies in force is now just over 5 million. It is more important than ever to educate consumers about the importance of having adequate flood insurance coverage to protect their property.

Needed NFIP Reforms

Program Stability

The last time a long-term NFIP reauthorization was set to expire was September 30, 2008. Subsequent to that, there were at least 17 short-term extensions and four lapses that created turmoil not just in the program, but with the housing market. A property in a flood-zone, with a federally-backed mortgage requiring the purchase of flood insurance, could not go to closing during a lapse. Due to the mounting debt owed to taxpayers, issues related to Hurricane Katrina and a desire to put the program on a more sound fiscal footing, the reauthorization process was not completed until July 6, 2012, when the President signed the Biggert-Waters Flood Insurance Reform Act.

Following the passage of Biggert-Waters, Congress passed the Homeowners Flood Insurance Affordability Act (HFIAA) in 2014, which scaled back some of the rate increases for certain previously subsidized properties.

Private insurers interested in writing flood insurance risk need to develop rates, obtain state approval of those rates, set up administrative systems, purchase reinsurance, train agents and educate consumers about the options to purchase flood insurance. Those are substantial investments of capital and resources. For the private sector to more actively apply capital to this risk on behalf of consumers, assurances are needed that the current federal program will continue to exist, and continue to move toward risk-based rates.

Accordingly, the insurance industry seeks a long enough extension to provide stability in the marketplace for both consumers and the companies entering, servicing, or competing with the program.

Lender Acceptance

Both recent flood reform bills, Biggert-Waters and HFIAA, included language designed to increase lender acceptance of private flood insurance. Federal lender-regulating entities have struggled to implement the provisions of these requirements. Federal regulators issued draft rules in 2013 and then again in 2016. The impact of these actions have not resulted in the intended effect, which was to increase private insurer risk-bearing and shift some of the potential losses from the NFIP and taxpayers to the private marketplace.

The Flood Insurance Market Parity and Modernization Act (H.R. 2901) was introduced and passed the House unanimously last year. That bill, recently reintroduced in this Congress (H.R. 1422), clarifies the roles of the various entities involved: the Federal lending regulators; state insurance regulators; insurers and consumers to accomplish the original goal of the provision in Biggert-Waters. We strongly support passage of this important legislation that will further encourage private insurers to enter the marketplace.

Elimination of the WYO Non-Compete Clause

Insurers that partner with the Federal government to sell NFIP flood insurance policies and help administer the program, sign an agreement called “the arrangement” annually that prohibits them from selling a product or products that compete directly with those offered through the NFIP.

Congress is interested in the private sector taking on more flood risk, the industry is interested in writing more flood risk, and consumers are interested in having more choices. The antiquated “non-competes” clause prevents many of the companies with the most experience with flood risk from writing it privately, unless they no longer participate in the WYO program. This either/or choice means that it will take significantly longer for a robust private marketplace to develop. Therefore, this provision should be eliminated immediately as part of any enacted legislation.

Data and Rate Reviews

One of the key components needed to develop and assure a stable and competitive public or private marketplace for insurance products is the availability of reliable data. Since the NFIP has been the risk-bearing insurer for almost 50 years, they have a significant amount of data that would be critical to developing reasonable and accurate rates for consumers for flood insurance.

PCI supports the NFIP sharing that data with insurers willing to underwrite flood risk. Insurers do not need any “personally identifiable information” with regard to the data, just the data on the properties in the program. This includes loss history, past premiums and elevation information.

The private sector rate development process is somewhat different than what is used by the NFIP. Nevertheless, insurers would like to have the last several years of rate reviews done by the NFIP’s actuaries. This information has not been made public for the past several years and would be instructive to insurers, just as such information is filed in many states by private insurers, in developing and charging consumers an appropriate, risk-based premium for flood insurance. Data also means that the market would more accurately price the product, leading to more stability in the marketplace for consumers.

Reinsurance

Language to encourage the purchase of reinsurance by the NFIP was included in both Biggert-Waters and HFIAA. FEMA made an initial small purchase in 2016 and has made a much larger purchase for 2017. Private market reinsurance is helpful in reducing the potential exposure to losses from the program and further protects taxpayers. PCI strongly supports a continued and expanded role with regard to purchasing private market reinsurance as it spreads the risk worldwide, provides valuable pricing standards regarding the risk and required FEMA to provide those reinsurers participating in the NFIP reinsurance placement with the key data mentioned earlier in this testimony.

Public Education

Since the last NFIP reauthorization, in July 2012, a number of significant flooding events have caused tragic human and physical losses, including Superstorm Sandy and the Louisiana floods last year. Unfortunately, many of those victims had not purchased flood insurance or their federal policies

did not provide the full types and amounts of coverage typically provided in the private insurance marketplace. Consumers need to understand their flood risk. PCI is advocating for a government-led education program to help educate consumers on their flood risk and the need for flood insurance. Additionally, Congress needs to enact flood insurance reform that includes a private insurance market so that consumers have more options and can find better protection for their property and financial security going forward.

Governmental Coordination

In the immediate aftermath of a natural catastrophe it is critical for local, state, and federal officials to coordinate their efforts to get basic services up and running as quickly as possible, to get people back in their homes, and to get businesses to begin remediation and rebuilding. Insurers need to be at the table during pre- and post-disaster emergency planning and coordination to ensure that smooth claims adjustment can be a part of the catastrophe response planning. It also is essential to the rebuilding process that local law enforcement and government officials allow insurers and insurance claims adjusters into damaged areas as soon it is safe – at least as soon as property owners are provided access.

Available Claims Adjusters

A problem following any major catastrophe when thousands of properties are damaged is the lack of locally licensed flood insurance adjusters. This delays the claims settlement and the rebuilding process. Most flood insurance adjusters are located in areas that frequently flood. Many states implement reciprocal recognition of claims adjusters from other states to help, and the state insurance department grants out-of-state adjusters access if the proper credentials are provided. However, it can often be difficult in the middle of a catastrophic event with an unusual number of claims to process the necessary paperwork in a timely manner. PCI supports federal legislation to require more reciprocal claims adjuster recognition.

Mitigation and Flood Maps

Preparation is a key factor in minimizing financial loss after a natural catastrophe. Strong, uniform statewide building codes that are regularly updated play a significant role in reducing the risk of injury or death to homeowners during a natural catastrophe. Structures built or retrofitted to comply with the most recent edition of the *International Building Code*, and other recognized building standards, incur less property damage during a significant weather event. Less property damage following an event reduces the need for federal disaster aid and can help expedite a community's recovery after a natural catastrophe. PCI promotes strong building codes and responsible land use policies, which are crucial for all stakeholders, to promote public safety and to be as prepared as possible for the next hurricane, tornado, or flood disaster. Updating flood maps immediately following such an event is critical to ensuring that homes and businesses being rebuilt meet the appropriate flood elevation criteria.

Ongoing Discussions of NFIP Reforms

PCI hosted the National Flood Insurance Conference in 2015, 2016 and will co-host it in 2017. The 2016 program, with over 800 attendees included all the stakeholders in this program. The 2017 conference agenda includes potential program improvements, other approaches to address the risk, technical issues and challenges to private sector participation and risk bearing. PCI will continue these discussions with stakeholders and would welcome further conversations on potential improvements to the NFIP with the subcommittee.

Conclusion

The flood insurance program protects millions of American businesses and families from catastrophic flood risk. PCI members and our WYO companies appreciate the opportunity to service the federal government and consumers. We are encouraged to see the subcommittee taking up this issue early in the year. First and foremost, it is important to secure a long-term reauthorization of the program, without any lapses. PCI members and our WYO companies welcome a discussion with the Subcommittee about how to improve the program, encourage private sector alternatives and shape the program for the future.



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March 15, 2017

The Honorable Sean Duffy
Chairman
House Financial Services Subcommittee
on Housing and Insurance
United States House of Representatives
Washington, D.C. 20515

The Honorable Emanuel Cleaver
Ranking Member
House Financial Services Subcommittee
on Housing and Insurance
United States House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Hearing on Flood Insurance Reform

Dear Chairman Duffy and Ranking Member Cleaver:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only trade association exclusively representing the federal interests of our nation's federally-insured credit unions, I write in conjunction with tomorrow's hearing entitled "Flood Insurance Reform: A Community Perspective". NAFCU is pleased to see the subcommittee working towards a long-term reauthorization of the National Flood Insurance Program (NFIP) before the September 30, 2017 deadline.

As you know, recent reauthorizations of the NFIP have seen a series of short-term extensions that have created a high level of uncertainty in the program and left millions of American families who rely on flood insurance policies in limbo. This is especially unacceptable to our nation's credit unions and their members, given that residential and commercial lending is key in turning around our still-struggling economy. It is with this in mind that we strongly support a multi-year, long-term reauthorization of the NFIP.

NAFCU is also pleased to see that the subcommittee is considering various program improvements such as: maintaining a focus on affordability of flood insurance, including private market options; increasing coverage limits and allowing lenders to require adequate coverage for both property and structures; addressing issues with the need for improved technology and expediency of mapping efforts; and taking steps to maintain the financial solvency of the program to bring stability to the market.

We do have concerns with further NFIP privatization efforts, as a private program could target lesser risk policies and strain the government program, which could potentially become the insurer of last resort. Furthermore, we would urge that any legislation ensure that annual premium rates are not raised too quickly, as this could lead to attrition in the program and long-term uncertainty for lenders.

We thank you and the subcommittee for your important work to reform the NFIP and move a long-term reauthorization. We would urge the subcommittee to move legislation forward as quickly as possible.

Should you have any questions or require any additional information please do not hesitate to contact me or Gaurav Parikh, NAFCU's Associate Director of Legislative Affairs, at 703-842-2261.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Thaler', with a stylized flourish at the end.

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Subcommittee on Housing and Insurance



May 9, 2016

The Honorable Al Green
U.S. House of Representatives
2347 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Green,

As you know, the Houston region has just experienced unprecedented rain and flooding. According to a new estimate prepared by BBVA Compass, Houston has experienced over \$1.9 billion in damage during the last few weeks, which includes damage to homes, cars, schools, parks, churches, roadways and other important elements of our infrastructure. For many, the recent storms have affected every aspect of their quality of life. Perhaps the most telling statistic of all: based on the 7,021 calls the United Way of Greater Houston has received through its 2-1-1 line, 1,937 calls have been requests for "food replacement."

Thank you for signing the April 24, 2016, letter to President Barack Obama, supporting Texas's major disaster declaration and the need to provide individual assistance to the four most affected counties. It was wonderful to see the federal declaration so quickly expanded. We also want to thank you for your leadership in co-authoring H.R. 5025, which would provide vital funding for the completion of flood control projects in Harris County. We greatly appreciate your leadership. We also want you to know the Partnership is eager to support this and any other effort at the federal level that will help Houston heal and will make it more resilient in the future.

We want to make sure that we do all we can to help you and your staff as you consider every potential opportunity for federal support. Please do not hesitate to call me directly if we can be helpful in any way. We can be reached at 713.844.3600.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamey Rootes'.

Jamey Rootes
Chairman

A handwritten signature in black ink, appearing to read 'Bob Harvey'.

Bob Harvey
President and CEO

Cc: Lilyanne McClean, Executive Vice President, Public Policy and Communications



HOUSTON ASSOCIATION OF REALTORS®

www.har.com • 3693 Southwest Freeway • Houston, Texas 77027-7597 • Telephone (713) 629-1900 • Fax (713) 961-4869

Mario Arriaga • Chairman of the Board • mario@har.com | C. Robert Hale III • President & CEO • crhale@har.com

May 23, 2016

The Honorable Al Green
U.S. House of Representatives
2347 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Green:

On behalf of the Houston Association of REALTORS® and our 32,000+ members, we are writing to you to express our strong support of your bill, H.R. 5025 the "2016 Tax Day Floods Supplemental Funding Act." It has only been a few weeks since the 2016 Tax Day flood struck the Greater Houston area. The April 18 floods had a dramatic impact on our entire region. Over 3,700 homes were damaged in Harris County, with some flooding for the second, third or fourth time. There were a total of 3,710 damaged structures throughout the county: 2,348 were outside the floodplain and 1,362 homes within the 100 year floodplain required in-home substantial damage inspections.

The funds secured from this legislation would help mitigate damages from future floods through the completion of various flood control projects in Harris County, including the project to widen Brays Bayou. This bill is extremely important for homeowners living in Harris County.

We are so grateful for your representation in Washington, and your continued support and interest in the real estate community is invaluable. If we ever may be of service to you, please do not hesitate to call on us.

Sincerely,

Mario Arriaga
2016 Chair of the Board

Dana Kervin
HAR Chief Political Strategist

Bay Area Branch
16903 Nuccamee Lane, Ste. 110 • Houston, TX 77058
(713) 629-1900 ext. 750 • Fax (713) 629-8876

Fort Bend Branch
6680 Greatwood Pkwy • Sugar Land, TX 77479
(713) 629-1900 ext. 700 • Fax (713) 629-8876

Montgomery County Branch
26710 1/45 North Ste. #C-500 • The Woodlands, TX 77380
(713) 629-1900 ext. 760 • Fax (713) 629-8876

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CITY OF HOUSTON

Sylvester Turner

Mayor

P.O. Box 1562
Houston, Texas 77251-1562

Telephone – Dial 311
www.houston.tx.gov

June 6, 2016

The Honorable Al Green
U.S. House of Representatives
2347 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Green,

On behalf of the City of Houston, I am writing to express strong support of your bill, H.R. 5025 the "2016 Tax Day Floods Supplemental Funding Act." Every Congressional member in the Houston delegation has signed on to this measure, and that is a credit not only to you and your office, but to the urgency of the need. We join with the Greater Houston Partnership, the Harris County Flood Control District, and many others in the greater Houston area in supporting these projects and associated funding.

The April 18th floods had a dramatic impact on our region, damaging over 2,700 homes in the City of Houston alone, some for the second time in less than a year. The funds secured from this legislation would help mitigate damages from future floods through the completion of various flood control projects in Harris County, including the project to widen Brays Bayou. As such, this is priority legislation for the City of Houston.

We are very grateful for your representation in Washington, and your continued support for the City of Houston.

Sincerely,

A handwritten signature in black ink, appearing to read "Sylvester Turner".

Sylvester Turner
Mayor



Communications Workers of America, AFL-CIO

District 6 Arkansas, Kansas, Missouri, Oklahoma, Texas

Claude Cummings Jr.
Vice President

District 6 Headquarters

Parkway at Oak Hill, Building One
4801 Southwest Parkway, Suite 115
Austin, Texas 78735
512-330-0871
fax: 512-330-0886

Via Email

May 18, 2016

Al Green
U.S. Congressman – District 9
3003 S Loop W # 460
Houston, TX 77054

Re: H.R. 5025

Dear Congressman Green,

The Communications Workers of America District 6 wants to thank you for your leadership in co-authoring H.R. 5025, which would provide vital funding for the completion of flood control projects in Harris County. We also want to thank you for signing the April 24, 2016, letter to President Barack Obama, supporting Texas's major disaster declaration and the need to provide individual assistance to the four most affected counties.

We greatly appreciate your leadership. We also want you to know that CWA is eager to support this and any other effort at the federal level that will help Houston residents.

We want to make sure that we do all we can to help you and your staff as you consider every potential opportunity for federal support.

Please do not hesitate to call me directly if we can be helpful in any way.

Respectfully,

A handwritten signature in black ink that reads "Claude Cummings Jr." with a stylized flourish at the end.

Claude Cummings Jr.
Vice President – D6

/at



April 29, 2016

The Honorable Al Green
2347 Rayburn House Office Building
Washington, DC 20515-4309

Reference: Support for H.R. 5025
Federal Partnership Projects in Harris County, Texas



Dear Congressman Green:

As the Executive Director of the Harris County Flood Control District (HCFCFCD), let me thank you most sincerely for your extraordinary efforts to help us complete our five remaining Federal Flood Risk Reduction (FRR) Projects currently authorized in Harris County. The funding that your bill, H.R. 5025, would provide to these projects, all of which are now in the construction phase, will allow the U.S. Army Corps of Engineers (USACE) and HCFCFCD to confidently execute the construction in the most efficient manner and complete them in the shortest possible time.

Construction on the Greens Bayou Project and the Clear Creek Project are being led by the USACE, while HCFCFCD leads the Brays Bayou, Hunting Bayou and White Oak Bayou projects. As partners we work together on all of the projects and this method of sharing the lead on projects allows us to maximize all of the capabilities and resources.

We also appreciate past appropriations successes that have kept pace with project delivery on Brays Bayou and Greens Bayou. By fully funding the listed projects until completed it will allow the improved drainage systems to work together to reduce the risk of flooding to tens of thousands of homes and businesses – realizing economic benefits of more than \$2.4 billion. Benefits also are realized in life-safety elements, construction cost inflation, and reduced recovery efforts and pressure on the National Flood Insurance Program. According to a Corps of Engineers calculation that 20,000 jobs are created with each billion dollars spent on Civil Works FRR projects, with the funding level that H.R. 5025 provides 6,220 jobs will be created in Harris County.

As our community recovers from another tragic flood we wish we could eliminate flooding altogether. Although that is not possible, your commitment to help us work as fast as possible to complete these projects and substantially reduce the risk of flooding will restore confidence that our community is getting safer each day.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Talbott".

Michael D. Talbott, P.E., D.WRE
Executive Director

MDT:to



Resolution

WHEREAS, Harris County has been a participating community in the National Flood Insurance Program (NFIP) since 1973 and believes the program tenants of providing affordable flood insurance, flood plain management, and risk mapping are benefits to our community; and

WHEREAS, the reauthorization of the program is up for consideration in 2017, however the program is crippled with over twenty billion dollars of debt and may be subject to discontinuation; and

WHEREAS, this debt is a symptom of disincentivizing good and preferred risk from purchasing policies, and similarly not incentivizing bad risk out of the program; and

WHEREAS, preferred risk is burdened with surcharges, uncertainty, and high overhead costs that have shown to repel a large number of good risk customers from purchasing policies; and

WHEREAS, most homeowners that are legally required to maintain flood insurance due to receiving a Federally backed mortgage are also dropping their policies with no penalties for doing so; and

WHEREAS, NFIP policies do not cover the full cost of compliance and elevation after a structure is repetitively damaged due to flooding; and

WHEREAS, federally backed mortgages continue to be offered for repetitive loss structures and to structures that are multiple feet below the Base Flood Elevation; and

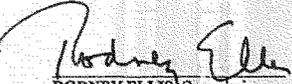
WHEREAS, these highly subsidized bad risk structures remain in the insurance pool and are asymmetricaly burdening the entire program yet could be removed if the program assisted with bringing a structure into compliance; and

WHEREAS, Harris County is burdened with the aftermath of property acquisition and the development gaps for taxes, service, and maintenance it creates when the property could be utilized for redevelopment of a code compliant structure; and

NOW THEREFORE BE IT RESOLVED, that Harris County supports the reauthorization of the National Flood Insurance Program, and support reforms to the program that better balances the risk pool with preferred risk by creating a more affordable structure specific product, covers the full cost of compliance for repetitive and severe repetitive loss structures, and allows communities to redevelop with code compliant structures on properties purchased through the Property Acquisition Program.

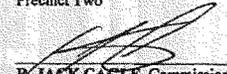
It is hereby **ORDERED** that this Resolution be spread upon the minutes of Commissioners Court this 31st day of January, 2017.


ED EMMETT, County Judge


RODNEY ELLIS, Commissioner
Precinct One


JACK MORMAN, Commissioner
Precinct Two


STEVE RADACK, Commissioner
Precinct Three


B. JACK CAGLE, Commissioner
Precinct Four

ATTEST:

Stan Stanert, County Clerk
Harris County, TEXAS



**RESPONSE TO QUESTIONS FOR THE RECORD
SUPPLEMENT TO TESTIMONY OF EVAN HECHT
CHIEF EXECUTIVE OFFICER
THE FLOOD INSURANCE AGENCY**

“Flood Insurance Reform: A Community Perspective”

**HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON
HOUSING AND INSURANCE
MARCH 16, 2017**

Supplement to Original Testimony

Chairman Duffy, thank you for your follow up question. At the hearing, when the five minutes you recognized yourself for ran out, I was unable to completely respond to your final question. You asked if I thought that at some point in time in the future, 3, 4 or 5 years down the road, if new construction should be allowed into the NFIP or if it should be driven to the private market, and if the private market could take those newly constructed homes.

My initial response voiced my concern that it would be difficult to mandate the private market to assume a given risk; and if the private market did not want to insure a specific risk, and if the NFIP was also not available, how would coverage availability be guaranteed to an at risk property owner? Upon reflection I believe there are two scenarios wherein newly constructed properties could be driven to the private market.

First, my initial concern would be alleviated if there was a provision within the legislation enabling State Insurance Commissioners the authority to trigger the availability of NFIP insurance in that State by declaring the insufficiency of the existence of a private flood insurance market, or the lack of affordably priced private flood insurance.

The Coastal Barrier Resources Act is precedent in Federal legislation to create a date in time where future construction was no longer eligible for coverage provided by FEMA’s NFIP. Eligibility under the 1982 Act for a building in a CBRS area requires that:

- A legally valid building permit for the construction of the building was issued prior to October 1, 1983; and

- The building was built (walled and roofed) prior to October 1, 1983; and
- The building was not substantially improved or substantially damaged on or after October 1, 1983.

I would like to offer a second, and possibly easier to administer alternative. Newly constructed properties, constructed after a given date, could be subject to a mandatory annually accumulating 25% surcharge to then current NFIP “actuarial” pricing. These newly constructed properties would be driven to the private market naturally because after a series of one, two or three years of 25% rate increases the private market would believe there was a competitive adequacy of rate. The surcharge for “newly constructed properties built after September 30, xxxx” would add a new type of property category to the current legislative 25% mandatory price increases for business properties and non-primary residential properties currently receiving subsidized rates.

The compounding effect of accumulating 25% increases would almost double premiums in three years and literally triple premium in five years. These rate increases would be sufficient to drive these risks to a willing private market. Any additional premiums collected until rates were sufficient to cause the private market to assume them could be used to reduce the burden on taxpayers for properties already written by the NFIP.

The long standing argument that taxpayers subsidized new construction in high hazard flood areas because of the availability of low cost flood insurance would be mitigated. NFIP flood insurance for new construction would no longer be inexpensive and would become more and more expensive. A purchaser would have to rely on their ability to secure affordable private flood insurance. A mandatory real estate disclosure form could be required notifying would be purchasers of “newly constructed properties built after September 30, 20??” of the potentially increasing cost of flood insurance.

I believe the private flood insurance policies providing coverage for future construction, caused either by a date in time or 25% surcharges, would be priced using a risk-based approach. I believe the capital markets have sufficient capital and the appetite to take these risk-based policies.

Chairman Duffy, I do think the private flood insurance marketplace is working as Congress anticipated that it would. As stated earlier, we are but one company participating in the private flood insurance space. In the short

time, since October 2013, that we have been selling private flood policies we have successfully removed approximately two percent of the subsidized pre-FIRM policies FEMA states are underpriced and creating a drag on the results of the NFIP. While doing so we have saved taxpayers, in the form of reduced premiums when compared to FEMA, over thirty-five million dollars and absorbed more than fifty-one million dollars of claims that FEMA would have otherwise paid.

